Supreme Court, U.S.
FILED

94 628 MAY 26 1994

OFFICE OF THE CLERK

No. 94-

IN THE

Supreme Court of the United States

OCTOBER TERM, 1994

IN RE: CHARLOTTE F. TAYLOR,
EMMA BENNETT, AND P.M. LUCIER
Petitioners,
vs.
MUSCOGEE COUNTY BOARD OF ELECTIONS AND
REGISTRATIONS AND STATE ELECTIONS BOARD,
et al,
Respondents.

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS TO THE UNITED STATES SUPREME COURT FOR THE GEORGIA SUPREME COURT

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS AND APPENDIX

CHARLOTTE F. TAYLOR, PRO SE, 70 MUSCOGEE DRIVE,
COLUMBUS, GA 31903 • (706) 000-NONE
EMMA BENNETT, PRO SE, 4225 ARMOUR ROAD,
COLUMBUS, GA 31904 • (706) 322-7093
P.M. LUCIER, PRO SE, 2225 VICKY AVENUE,
COLUMBUS, GA 31903 • (706) 687-4699

May 26, 1994 PRO SE PETITIONERS

QUESTIONS PRESENTED

1) Do petitioners have a clear legal right to have their case recorded at their own expense and if the petitioners have said right does denial of said right deny Due Process violating respondents U.S. Constitutional Rights.

2) Are the petitioners entitled to use the services of the official court reporter for the trial court.

3) Are the petitioners entitled to a transcript pursuant O.C.G.A. 5-6-41 which provides for a transcript being prepared from recollection.

4) Do the acts of the respondent(s) in failing or refusing to perform their official duties transgress petitioner(s) rights granted under Article 1, Section 1, Paragraph 2 of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

5) Do the petitioner(s) have a legal right to file document(s) in this action.

6) Is a judge required to disqualify himself in a proceeding in which his impartiality might reasonably be questioned.

7) Are the petitioner(s) entitled to an unbias judge.

LIST ALL PARTIES TO THE PROCEEDING

MUSCOGEE COUNTY, GEORGIA

LINDA PIERCE, individually and as Clerk of Superior Court of Muscogee County, Georgia

PETE ROBINSON, individually and as attorney for Muscogee County Board of Elections and Registrations

DENNIS DUNN, individually and as Senior Assistant Attorney General for the State Election Board

SUPERIOR COURT JUDGE R. RUCKER SMITH, individually and as a Superior Court Judge

CHARLOTTE F. TAYLOR, Pro Se Petitioner

EMMA BENNETT, Pro Se Petitioner

P.M. LUCIER, Pro Se Petitioner

MUSCOGEE BOARD OF ELECTIONS AND REGISTRATIONS (Georgia)

STATE ELECTION BOARD (Georgia)

EFFECTED PARTIES IN ADDITION TO THE ABOVE

All Muscogee County, Georgia registered voters.

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TABLE OF AUTHORITIES AND CITATIONS

Cf. Coppedge v. United States, 369 U.S. 438, 82 S.Ct. 917, 8 L.Ed.2d 21 (1962) 3

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Smith v. Bennett, 365 U.S. 708, 81 S.Ct. 895, 6 L.Ed.2d 39 (161) 3

CONSTITUTION(S):

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STATUTES:

O.C.G.A. 5-6-41 ..... 7, 10, 11, 12, A-72

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SECONDARY AUTHORITIES:

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Georgia Supreme Court Rules 231 GA Page A-1,
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UNITED STATES SUPREME COURT RULE 20 ..... A-77

(NOTE: MOTION REQUESTING COURT WAIVE THE REQUIREMENT OF FILING 40 COPIES OF PRINTED BRIEFS — HAS BEEN DELETED PURSUANT TO THE CLERK'S LETTER — EXHIBIT "iii".)

OPINION BELOW

Petitioners above named petition the U.S. Supreme Court within 90 days after the State Court entered its order on Petitioners motion for reconsideration. Said order was entered on February 25, 1994, and denied said motion without comment. On January 26, 1994, the Georgia Supreme Court, the court of original jurisdiction and the court of last resort, denied the extraordinary motion without comment.

JURISDICTIONAL STATEMENT

The Supreme Court has jurisdiction of this matter pursuant to:

Title 28 section 1651(a)"The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." ; United States Supreme Court Rule 20"1. ....there are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court."; and Title 28 section 1257(a) "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, any commission held or authority exercised under, the United States."

Further, the petitioner(s) have exhausted available remedies in the state courts, as evidenced by Exhibit "i" Order on Motion For Reconsideration, entered on February 25, 1994; "ii" Order on Extraordinary Motion, entered on January 26, 1994; and this Petition For A Writ of Mandamus, received on May 26, 1994 by the Supreme Court Clerk and contained in the appendix.

IN THE UNITED STATES SUPREME COURT

OCTOBER TERM, 1994

IN RE:	*	
CHARLOTTE F. TAYLOR,	*	
EMMA BENNETT, and	*	
P.M. LUCIER,	*	
	*	
	*	
PETITIONERS,	*	
	*	
	*	CIVIL ACTION
VS.	*	NUMBER _____
	*	
	*	
MUSCOGEE COUNTY BOARD	*	
OF ELECTIONS AND	*	
REGISTRATIONS and	*	
STATE ELECTION BOARD,	*	
et al,	*	
	*	
RESPONDENTS.	*	

PETITION FOR AN EXTRAORDINARY
WRIT OF MANDAMUS

STATEMENT OF THE CASE

This case is before this court due to an election which violated a number of citizens rights to vote and a number of candidates rights to compete in a legal election. The money to pay for this request for a Mandamus was raised by the community through a yard sale. Numerous members of the community have come forward to testify and to help support this fight. As a result the

candidates and the citizens through the candidates actions are to some degree appearing before this court to request help in the following matter(s).

On November 2, 1993, a local school board election was held. Within 5 days after said election, a contest was filed in the Muscogee County Superior Court, as required by law. Notice of Appeal was timely filed on December 20, 1993, from a final judgment entered on December 13, 1993. The Georgia Constitution requires appeals of contested elections to be appealed to the Georgia Supreme Court, to date this appeal has not been heard before the Georgia Supreme Court. This is in part due to the denial of the parties CLEAR LEGAL RIGHT TO HAVE A TRANSCRIPT OF THE PROCEEDINGS and a mandatory right to have the proceedings reported.

It was held in Lindsey v. Normet, 405 U.S. 77, 92 S.Ct. 862 (1972) when an appeal is afforded, the State must not so structure it as to arbitrarily deny to some persons the right or privilege available to others.

As a result of the foregoing, the Petitioners are before this Court to ask that the Court issue an order to compel those public officer(s) involved to perform their duty(s). The Appellants have exercised ordinary diligence to secure the discharge of such duty(s) without success.

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS

1.

Petitioners above named hereby petition this Court for a Extraordinary Writ of Mandamus said writ will be in aid of the Court's appellate jurisdiction.

2.

There are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and adequate relief

cannot be obtained in any other form or from any other court.

3.

Petitioners above named petition the U.S. Supreme Court within 90 days after the State Court entered its order on Petitioners Motion For Reconsideration. Said order was entered on February 25, 1994, and denied said motion without comment. On January 26, 1994, the Georgia Supreme Court, the court of original jurisdiction and the court of last resort, denied the Extraordinary Motion without comment.

4.

The acts of the respondent(s) in failing or refusing to perform their official duties transgresses petitioners' rights granted under Article 1, Section 1, Paragraph 2 of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States which respectively provide in pertinent part the following:

"Protection to person and property is the paramount duty of government and shall be impartial and complete."

"Nor shall any state deprive any person of life, liberty or property, without due process of law."...and thereby making same unconstitutional. This violates petitioners constitutional rights aforesaid. It was held in Lindsey v. Normet, 405 U.S. 77; 92 S.Ct. 876 (1972), when an appeal is afforded, the State must not so structure it as to arbitrarily deny to some persons the right or privilege available to others without violating the Equal Protection Clause. Griffin v. Illinois, 351 U.S. 12, 18, 76 S.Ct. 585, 590, 100 L.Ed. 891 (1956); Smith v. Bennett, 365 U.S. 708, 81 S.Ct. 895, 6 L.Ed.2d 39 (1961); Lane v. Brown, 372 U.S. 477, 83 S.Ct. 788, 9 L.Ed.2d 892 (1963); Long v. District Court of Iowa, 385 U.S. 192, 87 S.Ct. 362, 17 L.Ed.2d 290 (1966); Gardner v. California, 393 U.S. 367, 89 S.Ct. 580, 21 L.Ed.2d 601 (1969). Cf. Coppedge v. United States, 369 U.S. 438, 82 S.Ct. 917, 8 L.Ed.2d 21 (1962); Ellis v. United States, 356 U.S. 674, 78 S.Ct. 974, 2 L.Ed.2d 1060 (1958).

5.

O.C.G.A. 9-6-20 provides when a mandamus may issue and states as follows, "All official duties should be faithfully performed; and whenever, from any cause, a defect of legal justice would ensue from a failure to perform or from improper performance, the writ of mandamus may issue to compel a due performance,if there is no other specific legal remedy for the legal rights." O.C.G.A. 9-6-22 further provides, "If any ..... clerk, or other officer fails to discharge any duty required of him by any provision of Title 5, upon petition the appellate court or the superior, state, or city court, as the case may be, may compel the performance of such duty by mandamus. No party shall lose any right by reason of the failure of the officer to discharge his duties when the party has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties." As a result of the foregoing, plaintiffs have a right to a writ of mandamus to compel a due performance of all official duties.

6.

CLEAR LEGAL RIGHT TO HAVE TRANSCRIPT

Every litigant has a right to have his case recorded at his own expense. Georgia Code 6-805(j). In Dumas v. State, 131 Ga. App. 79, 205 S.E.2d 119, the court held, "In all cases, civil or criminal, any party may as a matter of right have the case reported at his own expense." Accordingly, the provision 'in his discretion' clearly refers to the terms which the judge may require for the reporting and transcribing but not to the mandatory right to have the proceedings reported. In short, the proper interpretation is that, in all cases, including misdemeanors, any party has the absolute right to have the case reported at his own expense. Thus the ruling which denied the defense the right to have the oral arguments recorded was error."

7.

The evidence attached to APPEAL AND ACTION FOR MANDAMUS TO INCLUDE A MOTION TO STAY ALL ACTIONS BY THE MUSCOGEE COUNTY SCHOOL BOARD SEATED IN JANUARY, 1994, clearly shows plaintiffs tried to use the services of the official court reporter for the trial court. After being told no, plaintiffs tried to acquire the service of some other court reporter(s) to no avail. After ever thing else failed, plaintiffs made a motion before the court to be allowed to tape record the proceedings. This was denied, although the judge allowed 2 television stations to record the entire proceedings. [Exhibit "8" AFFIDAVIT OF L.W. MYERS REGARDING EVENTS AT HEARING ON NOVEMBER 30, 1993 HELD AT 3:00 P.M. WITH JUDGE R. RUCKER SMITH, PRESIDING, page(s) 1,2; Exhibit "9" AFFIDAVIT OF JOHN ELLISON REGARDING EVENTS AT HEARING ON NOVEMBER 30, 1993 HELD AT 3:00 P.M. WITH JUDGE R. RUCKER SMITH, PRESIDING, page(s) 1,2: Exhibit "14" AFFIDAVIT OF CHARLOTTE F. TAYLOR REGARDING EVENTS AT HEARING ON NOVEMBER 30, 1993 HELD AT 3:00 P.M. WITH JUDGE R. RUCKER SMITH, PRESIDING, page(s) 1, 2.] Therefore, Plaintiffs are entitled to a transcript pursuant O.C.G.A. 5-6-41 which provides for a transcript being prepared from recollection.

8.

Petitioners/Plaintiffs named as respondents/defendants the following: Muscogee County, Georgia; Linda Pierce, individually and as the Clerk of Superior Court of Muscogee County, Georgia; Pete Robinson, individually and as attorney for Muscogee County Board of Elections and Registrations; Dennis Dunn, individually and as Senior Assistant Attorney General for the State Election Board; and Superior Court Judge R. Rucker Smith, individually and as a Superior Court Judge.

9.

Linda Pierce is a resident of Muscogee County, Georgia and is

subject to the jurisdiction of this Court.

10.

Pete Robinson is a resident of Muscogee County, Georgia, a Ranking Georgia State Senator (Pete Robinson after the filing of a compiaint with the Senate Ethic Committee by a voter, resigned as Pro Tem of the Senate and announced he would not seek reelection) and the attorney for the Muscogee County Board of Elections and Registrations and is subject to the jurisdiction of this Court.

11.

Dennis Dunn is a resident of the State of Georgia, Senior Assistant Attorney General and attorney for the State Election Board and is subject to the jurisdiction of this court.

12.

Superior Court Judge R. Rucker Smith is a resident of the State of Georgia, Superior Court Judge assigned to hear the above styled action and is subject to the jurisdiction of this court.

13.

Muscogee County, Georgia is a political subdivision of the State of Georgia.

14.

The General Assembly is a political subdivision of the State of Georgia.

15.

The Georgia Attorney General's Office is a political subdivision of the State of Georgia.

16.

The State Judiciary is a political subdivision of the State of Georgia.

17.

The respondent, Linda Pierce Clerk of Superior Court of Muscogee County, Georgia, individually and as Clerk, constitutes the duly elected and qualified governing body of Muscogee County, Georgia, acting for and in behalf of said County by and

under the authority of said Office Of The Clerk of Superior Court.

18.

The respondent, Georgia State Senator Pete Robinson, individually and as attorney for the Muscogee County Board of Elections and Registrations, constitutes the duly appointed and qualified governing counsel of Muscogee County, Georgia, acting for and in behalf of said County by and under the authority of said Muscogee County Board of Elections and Registrations.

19.

The respondent, Dennis Dunn, individually and as Senior Assistant Attorney General, counsel for the State Election Board, constitutes the duly appointed and qualified governing counsel of Muscogee County, Georgia, acting for and in behalf of said County and State by and under the authority of the Georgia State Election Board.

20.

The respondent, Superior Court Judge R. Rucker Smith, individually and as Superior Court Judge, constitutes the duly elected, appointed and qualified governing Judge of Muscogee County, Georgia, acting for and in behalf of said County pursuant to O.C.G.A. 21-2-523.

21.

Petitioners show that on December 20, 1993, they filed their NOTICE OF APPEAL from the FINAL JUDGEMENT entered on December 13, 1993, with said order being attached to the NOTICE OF APPEAL, a copy of which is hereto attached, marked Exhibit "1" and made a part hereof.

22.

Petitioners stated in their NOTICE OF APPEAL that a transcript of evidence and proceedings would be filed pursuant to O.C.G.A. 5-6-41 and THE GEORGIA SUPREME COURT RULES.

23.

Petitioners timely paid costs in this matter, evidence of said

payment is hereto attached, marked Exhibit "2" and made a part of hereof.

24.

The Clerk of Muscogee County Superior Court refused to accept the additional $5.00 for the transcript cost and refused to file a copy of said transcript for the Court to issue an order with regard to or the defendant(s) to respond to in agreement or disagreement.

25.

Georgia Senator Pete Robinson refused to speak with petitioners, in violation of the Attorneys Code of Ethics. The foregoing has continued and to date Georgia Senator Pete Robinson has refused to even talk to the petitioners or even read the proposed transcript.

26.

Senior Assistant Attorney General has failed or refused to speak with the petitioners, in violation of the Attorneys Code of Ethics. The foregoing has continued and to date Senior Assistant Attorney General has failed or refused to talk to the petitioners or even read the proposed transcript.

27.

Superior Court Judge R. Rucker Smith, has failed or refused to issue an order or ruling allowing or denying the filing of the transcript, as reported by Superior Court Clerk Linda Pierce, and to date no order has issued.

28.

The transcript consist of the following {duplicate original was filed with the court of original jurisdiction and last resort, The Georgia Supreme Court}:

1) Affidavit of Kenneth L. Barfield, a copy is hereto attached, marked Exhibit "3" and made a part hereof;

2) Affidavit of Brenda Truitt, a copy is hereto attached, marked Exhibit "4" and made a part hereof;

3) Affidavit of Shirley Taylor, a copy is hereto attached, marked Exhibit "5" and made a part hereof;

4) Affidavit of Linda George, a copy is hereto attached, marked Exhibit "6" and made a part hereof;

5) Affidavit of Douglas W. George, a copy is hereto attached, marked as Exhibit "7" and made a part hereof;

6) Affidavit of L.W. Myers regarding events at Hearing on November 30, 1993, held at 3:00 P.M. with Judge R. Rucker Smith, Presiding, a copy is hereto attached, marked Exhibit "8" and made a part hereof;

7) Affidavit of John Ellison, a copy is hereto attached, marked Exhibit "9" and made a part hereof;

8) Affidavit of John Ellison regarding events at Hearing on November 30, 1993, held at 3:00 P.M. with Judge R. Rucker Smith, Presiding, a copy is hereto attached, marked Exhibit "10" and made a part hereof;

9) Affidavit of James B. Bennett, a copy is hereto attached, marked Exhibit "11" and made a part hereof;

10) Affidavit of Emma Bennett, a copy is hereto attached, marked Exhibit "12" and made a part hereof;

11) Affidavit of P.M. Lucier, a copy is hereto attached, marked Exhibit "13" and made a part hereof;

12) Affidavit of Charlotte F. Taylor, a copy is hereto attached, marked Exhibit "14" and made a part hereof.

29.

The respondent, Superior Court Clerk of Muscogee County, named herein has refused to file or even mark as received the transcript of the proceedings and such is unreasonable, capricious and arbitrary and is an illegal attempt to exercise a discretion which is clearly forbidden by Georgia Law, O.C.G.A. 5-6-41(h).

30.

SUPERIOR COURT CLERK OF MUSCOGEE COUNTY

Plaintiffs have a clear legal right to file document(s) in this action, to include but not limited to motion(s) to have the transcript of evidence certified and filing a copy of said transcript or proposed transcript. To date defendant, Superior Court Clerk of Muscogee County has refused to file or even mark as received the transcript of the proceedings or proposed transcript of the proceedings and such is unreasonable, capricious and arbitrary and is an illegal attempt to exercise a discretion which is clearly forbidden by Georgia Law.

31.

The respondent, Georgia State Senator Pete Robinson and Attorney for Muscogee County, Georgia, has refused to do those acts necessary to comply with O.C.G.A. 5-6-41 and the GEORGIA SUPREME COURT RULES regarding the preparing of a transcript of the evidence and proceedings and such is unreasonable, capricious and arbitrary and is an illegal attempt to exercise a discretion which is clearly forbidden by Georgia Law.

32.

ATTORNEY FOR MUSCOGEE COUNTY, GEORGIA
[GEORGIA STATE SENATOR PETE ROBINSON]

Plaintiffs have a mandatory right to have the case proceedings reported. Id. O.C.G.A. 5-6-41 provides for a transcript to be prepared from recollection and the GEORGIA SUPREME COURT RULES either expressly or by necessary implication require performance of those act(s) necessary to comply with said law(s) and rule(s). Therefore, Plaintiffs have a clear legal right to

require defendant, Georgia State Senator Pete Robinson, Attorney for Muscogee County, Georgia to do those act(s) necessary to comply with said law(s) and rule(s). To date defendant, Attorney For Muscogee County, Georgia [Georgia State Senator Pete Robinson], has refused to do those acts necessary to comply with O.C.G.A. 5-6-41 and the GEORGIA SUPREME COURT RULES with regard to the preparing of a transcript of the evidence and proceedings and such is unreasonable, capricious and arbitrary and is an illegal attempt to exercise a discretion which is clearly forbidden by Georgia Law.

33.

The respondent, Senior Assistant Attorney General Dennis Dunn, has failed or refused to do those acts necessary to comply with O.C.G.A. 5-6-41 and the GEORGIA SUPREME COURT RULES regarding the preparing of a transcript of the evidence and proceedings and such is unreasonable, capricious and arbitrary and is an illegal attempt to exercise a discretion which is clearly forbidden by Georgia Law.

34.

SENIOR ASSISTANT ATTORNEY GENERAL DENNIS DUNN

Respondents have a mandatory right to have the case proceedings reported. Id. O.C.G.A. 5-6-41 provides for a transcript to be prepared from recollection and the GEORGIA SUPREME COURT RULES either expressly or by necessary implication require performance of those act(s) necessary to comply with said law(s) and rule(s). Therefore, Plaintiffs have a clear legal right to require defendant, Senior Assistant Attorney General Dennis Dunn to do those act(s) necessary to comply with said law(s) and rule(s). To date defendant, Senior Assistant Attorney General Dennis Dunn has failed or refused to do those act(s) necessary to comply with O.C.G.A. 5-6-41 and the GEORGIA SUPREME COURT RULES with regard to the preparing of a transcript of the evidence and proceedings and such is unreasonable, capricious and arbitrary and is an illegal attempt

to exercise a discretion which is clearly forbidden by Georgia Law.

35.

The respondent, Superior Court Judge R. Rucker Smith, has failed or refused to do those acts necessary to comply with O.C.G.A. 5-6-41 and the GEORGIA SUPREME COURT RULES regarding the preparing of a transcript of the evidence and proceedings and such is unreasonable, capricious and arbitrary and is an illegal attempt to exercise a discretion which is clearly forbidden by Georgia Law.

36.

SUPERIOR COURT JUDGE R. RUCKER SMITH

Petitioners have a mandatory right to have the case proceedings reported. Id. O.C.G.A. 5-6-41 provides for a transcript to be prepared from recollection and the GEORGIA SUPREME COURT RULES either expressly or by necessary implication require performance of those act(s) necessary to comply with said law(s) and rule(s). Therefore, Plaintiffs have a clear legal right to require defendant, Superior Court Judge R. Rucker Smith to do those act(s) necessary to comply with said law(s) and rule(s). To date defendant, Superior Court Judge R. Rucker Smith has failed or refused to issue an order or ruling allowing or denying the filing of the transcript, as reported by Superior Court Clerk Linda Pierce. Plaintiffs have a clear legal right to the foregoing order. And the Superior Court Judge R. Rucker Smith does not have a right to change the testimony of any witness(es).

Additionally, the Georgia Code of Judicial Conduct became effective January 1, 1974. See, 231 Ga., page A-1. Under Canon 3C(1)(a) of that Code, a judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where he has a personal bias or prejudice concerning a party. The Court has interpret the word "should" to mean "shall" in the context of this

requirement. Consequently, where bias or prejudice of a judge has been shown concerning a party, it is error for the judge to hear and decide the case.

Therefore, as a matter of legal right the Petitioners are entitled to an unbias judge and such has not been the fact in this case. [Exhibit "8" and its attachments, Exhibit "9", Exhibit "10"; all other Exhibits also show very clearly the bias or prejudice of the judge in this action.]

37.

The denial to the petitioners of their rights as herein shown is an infringement upon petitioners' rights of person and property which results from the unconstitutional feature thereof as herein shown upon which this attack is based, and same injures petitioners and so operates as to deprive petitioners of their rights protected under the aforesaid provisions of the Constitution of the State of Georgia and the Constitution of the United States of America.

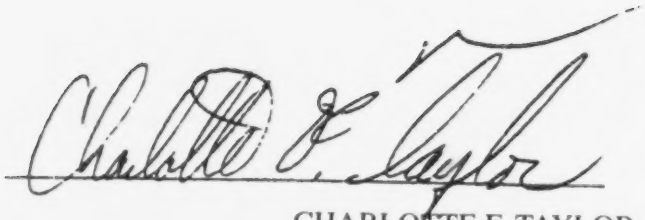
38.

Petitioners show that they have no adequate remedy at law and that the respondents should be compelled to perform their official duties, to which petitioners have a clear legal right, and that a defect of legal justice would ensue from this failure to do so and from the improper performance of their duties to do so and that a writ of mandamus should issue to compel a due performance.

39.

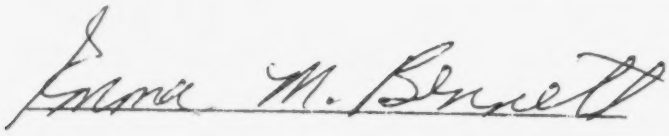
Petitioners, Charlotte F. Taylor, Emma Bennett and P.M. Lucier having a clear legal right to the foregoing prays that the Court will issue a writ of mandamus compelling respondents to perform their official duties or to show cause at a time and place to be designed by the court, why a mandamus should not be issued against them requiring them to perform their official duties.

WHEREFORE, Petitioners for the foregoing reasons pray that their forgoing petition for an Extraordinary Writ of Mandamus be granted and such other relief as the court deems just.



CHARLOTTE F. TAYLOR

70 MUSCOGEE DR.
COLUMBUS, GA 31903



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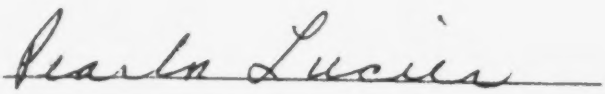

P.M. LUCIER

2225 VICKY AVE.
COLUMBUS, GA 31903
(706) 687-4699

IN THE UNITED STATES SUPREME COURT

IN RE:	*	
CHARLOTTE F. TAYLOR,	*	
EMMA BENNETT, and	*	
P.M. LUCIER,	*	
	*	
	*	
PETITIONERS,	*	
	*	
	*	CIVIL ACTION
VS.	*	NUMBER _____
	*	
	*	
MUSCOGEE COUNTY BOARD	*	
OF ELECTIONS AND	*	
REGISTRATIONS and	*	
STATE ELECTION BOARD,	*	
	*	
	*	
RESPONDENTS.	*	

VERIFICATION

Georgia, Muscogee County

In person before the undersigned officer authorized to administer oaths came Emma Bennett who states on oath that she is the respondent, appellant and plaintiff named in the foregoing APPEAL AND PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS and that the facts contained in said APPEAL AND PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS AND MOTION REQUESTING THAT THE

COURT WAIVE THE REQUIREMENT OF FILING 40 COPIES OF PRINTED BRIEFS and that the facts contained in said APPEAL AND PETITION FOR AN EXTRAORDINARY WAIT OF MANDAMUS AND MOTION REQUESTING THAT THE COURT WAIVE THE REQUIREMENT OF FILING 40 COPIES OF PRINTED BRIEFS are true and correct.

Emma M. Bennett

EMMA BENNETT

SWORN TO AND SUBSCRIBED BEFORE ME THIS 25th DAY OF MAY, 1994.

Maxine Reid

NOTARY PUBLIC

MY COMMISSION EXPIRES: My Commission Expires 2-6-96

IN THE UNITED STATES SUPREME COURT

IN RE:	*	
CHARLOTTE F. TAYLOR,	*	
EMMA BENNETT, and	*	
P.M. LUCIER,	*	
	*	
	*	
PETITIONERS,	*	
	*	
	*	CIVIL ACTION
VS.	*	NUMBER _____
	*	
	*	
MUSCOGEE COUNTY BOARD	*	
OF ELECTIONS AND	*	
REGISTRATIONS and	*	
STATE ELECTION BOARD,	*	
	*	
	*	
RESPONDENTS.	*	

VERIFICATION

Georgia, Muscogee County

In person before the undersigned officer authorized to administer oaths came P.M. Lucier who states on oath that she is the respondent, appellant and plaintiff named in the foregoing APPEAL AND PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS and that the facts contained in said APPEAL AND PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS AND MOTION REQUESTING THAT THE COURT WAIVE THE REQUIREMENT OF FILING 40 COPIES

OF PRINTED BRIEFS and that the facts contained in said APPEAL AND PETITION FOR AN EXTRAORDINARY WAIT OF MANDAMUS AND MOTION REQUESTING THAT THE COURT WAIVE THE REQUIREMENT OF FILING 40 COPIES OF PRINTED BRIEFS are true and correct.

Pearlie Lucier

P.M. Lucier

SWORN TO AND SUBSCRIBED BEFORE ME THIS 25th DAY OF MAY, 1994.

Debra K. Weaver

NOTARY PUBLIC

MY COMMISSION EXPIRES: 3-4-97

IN THE UNITED STATES SUPREME COURT

IN RE: -	*	
CHARLOTTE F. TAYLOR,	*	
EMMA BENNETT, and	*	
P.M. LUCIER,	*	
	*	
	*	
PETITIONERS,	*	
	*	
	*	CIVIL ACTION
VS.	*	NUMBER _____
	*	
	*	
MUSCOGEE COUNTY BOARD	*	
OF ELECTIONS AND	*	
REGISTRATIONS and	*	
STATE ELECTION BOARD,	*	
	*	
	*	
RESPONDENTS.	*	

VERIFICATION

Georgia, Muscogee County

In person before the undersigned officer authorized to administer oaths came Charlotte F. Taylor who states on oath that she is the respondent, appellant and plaintiff named in the foregoing APPEAL AND PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS and that the facts contained in said APPEAL AND PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS AND MOTION REQUESTING THAT THE COURT WAIVE THE REQUIREMENT OF FILING 40 COPIES OF PRINTED BRIEFS and that the facts contained in said APPEAL AND PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS AND

MOTION REQUESTING THAT THE COURT WAIVE THE REQUIREMENT OF FILING 40 COPIES OF PRINTED BRIEFS

are true and correct.

Charlotte F. Taylor

CHARLOTTE F. TAYLOR

SWORN TO AND SUBSCRIBED BEFORE ME THIS 25th DAY OF MAY, 1994.

Debra K. Deaver

NOTARY PUBLIC

MY COMMISSION EXPIRES: 3-4-97

APPENDIX

BEST AVAILABLE COPY

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"SUPREME COURT OF GEORGIA

ATLANTA FEBRUARY 25, 1994

The Honorable Supreme Court met pursuant to adjournment. The following order was passed:

Case No. S94M0586

CHARLOTTE F. TAYLOR ET AL. V. MUSCOGEE COUNTY BOARD OF ELECTIONS AND REGISTRATIONS AND STATE ELECTION BOARD.

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia. Witness my signature and the seal of said court affixed the day and year last above written.

Sherie M. Welch, Clerk. "

Exhibit "i"

" S94MO586

SUPREME COURT OF GEORGIA

Atlanta Jan. 26, 1994

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

CHARLOTTE F. TAYLOR et al. v MUSCOGEE COUNTY BOARD OF ELECTIONS AND REGISTRATIONS AND STATE ELECTION BOARD.

Upon consideration of the Extraordinary Motion filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA,
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Lynn M. Stinchcomb,
Deputy Clerk."

Exhibit "ii"

" SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

WILLIAM K. SUTTER
Clerk of the Court

AREA CODE 202
479-3011

June 8, 1994

Charlotte F. Taylor
70 Muscogee Drive
Columbus, GA 31903

Re: Charlotte F. Taylor, et al.
v. Muscogee County Board of Elections, et al.

Dear Ms. Taylor:

Your petition for a writ of mandamus was received May 26, 1994 and must be returned since it must be presented on paper which is 6 1/8 by 9 1/4 inches as stated in Rule 33 of the Rules of the Court if you intend to pay the $300.00 filing fee. The Court does not waive the printing requirement under any circumstances. See this Court's opinion in Snider v. Allstate — a copy of which is enclosed.

You may redo the petition and the appendix so that they comply in all respects with Rule 33 and submit it for filing. Your attention is directed to Rules 10-14 and 33.7 of the Rules of the Court. Your money order in the amount of $300.00 is returned as well.

Very truly yours,
WILLIAM K. SUTER, Clerk

By
Francis J. Lorson
Chief Deputy Clerk "

Enc.
cc: Dennis Dunn
Pete Robinson
Hon. R. Rucker Smith
Linda Pierce

Exhibit "iii"

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY, GEORGIA

CHARLOTTE F. TAYLOR,	*	
EMMA BENNETT, and	*	
P.M. LUCIER,	*	
	*	
CONTESTANTS,	*	
	*	CIVIL ACTION NO.
VS.	*	SU93CV4309
	*	
MUSCOGEE COUNTY BOARD OF	*	
ELECTIONS AND REGISTRATIONS	*	
and STATE ELECTION BOARD,	*	
	*	
DEFENDANTS.	*	

NOTICE OF APPEAL

Notice is hereby given that Charlotte F. Taylor, Emma Bennett, and P.M. Lucier, contestants above-named, hereby appeal to the Supreme Court from the FINAL JUDGMENT entered in this action on December 13, 1993, with said order being attached hereto.

The clerk will please omit the following from the record on appeal:

1. NOTHING.

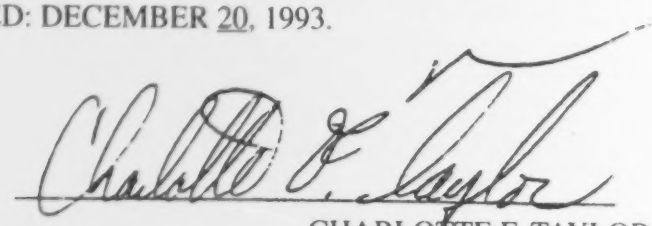
Transcript of evidence and proceedings will be filed for inclusion in the record on appeal. As stated by the Court, the court's reporter had a deposition and was unavailable to take down the proceedings. Therefore, the contestants, unable to locate another court reporter and pursuant to O.C.G.A. 5-6-41 and the GEORGIA SUPREME COURT RULES are preparing a transcript of evidence and proceedings.

This Court, rather than the Court of Appeals has

Exhibit "1"

jurisdiction of this case on appeal pursuant to Art. 6, Sec. 6, Para. 2 of the Georgia Constitution which gives the Supreme Court exclusive appellate jurisdiction all cases of election contest, all cases involving the Constitution of the State of Georgia and all cases involving the Constitution of the United States.

DATED: DECEMBER 20, 1993.



CHARLOTTE F. TAYLOR

70 MUSCOGEE DR.
COLUMBUS, GA 31903

EMMA BENNETT

4225 ARMOUR RD.
COLUMBUS, GA 31904
(706) 322-7093

P. M. LUCIER

2225 VICKY AVE.
COLUMBUS, GA 31903
(706) 687-4699

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served a copy of the above and foregoing NOTICE OF APPEAL upon the following:

PETE ROBINSON
SELF, MULLINS, ROBINSON & MARCHETTI
1017 FIRST AVENUE, SUITE 200
COLUMBUS, GEORGIA 31902

STATE BOARD OF ELECTIONS
C/O DENNIS DUNN
SENIOR ASSISTANT ATTORNEY GENERAL
40 CAPITOL SQUARE, SUITE 132
ATLANTA, GEORGIA 30334-1300

by mailing same in the United States Mail with the appropriate postage.

This 20 day of December, 1993.

Charlotte F. Taylor

CHARLOTTE F. TAYLOR

70 MUSCOGEE DR.
COLUMBUS, GA 31903

Emma M. Bennett

EMMA BENNETT

4225 ARMOUR RD.
COLUMBUS, GA 31904
(706) 322-7093

Pearla Lucier

P. M. LUCIER

2225 VICKY AVE.
COLUMBUS, GA 31903
(706) 687-4699

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY, GEORGIA

CHARLOTTE F. TAYLOR,	*	
EMMA BENNETT, and	*	
P.M. LUCIER,	*	
	*	
Plaintiffs	*	
	*	CIVIL ACTION NO.
VS.	*	SU93CV-4309
	*	
MUSCOGEE COUNTY BOARD OF	*	
ELECTIONS AND REGISTRATIONS	*	
and STATE ELECTION BOARD,	*	
	*	
DEFENDANTS.	*	

FINAL JUDGMENT

The above-styled case having been duly filed in the Superior Court of Muscogee County, Georgia and having been brought on for hearing before this court on November 30, 1993 and the court having reviewed the entire record including all pleadings on file, and having considered testimony and argument of counsel and the parties, the court finds as follows:

FINDINGS OF FACT

1.

This action was commenced by a petition to contest the election for members of the Muscogee County Board of Education which election was held on November 2, 1993 which petition was filed by plaintiff Charlotte Taylor on behalf of herself and

plaintiffs Emma Bennett and P. M. Lucier.

2.

All pleading and correspondence were prepared by plaintiff Charlotte Taylor.

3.

Charlotte Taylor is not a licensed attorney in the state of Georgia. She is not a member of the State Bar of Georgia and she is not authorized to engage in the practice of law in the State of Georgia.

4.

Plaintiff Emma Bennett did not prepare any of the pleadings or engage in any of the representation on behalf of herself in this action and was not represented by any person authorized or admitted to practice law in Georgia.

5.

Plaintiff P. M. Lucier did not prepare any of the pleadings or engage in any of the representation on behalf of herself in this matter and was not represented by any person authorized or admitted to practice law in Georgia.

6.

Plaintiff Charlotte Taylor was a candidate for election to the Muscogee County Board of Education in District 3 in the November 2, 1993 special election.

7.

The other two candidates for election in District were Linda S. Resch and James Walker.

8.

The results of the election in question, in District 3, were as follows:

Linda S. Resch	255 votes	(21.13%)
Charlotte F. Taylor	172 votes	(14.25%)
James Walker	780 votes	(64.62%)

9.

James Walker received more than a majority of the votes cast in Board of Education District 3 and was duly declared the elected winner of that position.

10.

Plaintiff Charlotte Taylor was the only witness present at the hearing to testify about the accuracy of the ballots cast in Board of Education District 3.

11.

Plaintiff Charlotte Taylor had no personal knowledge of any ballot information about votes other than her own and was not able to produce other witnesses to substantiate her claims of improper handlings of the ballots or improper counting of the ballots.

12.

Plaintiff Charlotte Taylor was only able to speculate about possible improprieties of ballot handling or counting.

13.

The State Election Board did not participate in the conduct of the election which is the subject of this contest and was not involved in the administration of the election, counting of the ballots, or supervision of the poll workers.

14.

Plaintiff Charlotte Taylor was unable to produce any witnesses, other than herself, who could substantiate or verify her claims about alleged election improprieties in Education District 3.

15.

The State Election Board incurred expenses in the amount of $1,620.00 attorney's fees and $65.20 expenses in the defense of this claim.

16.

The Muscogee County Board of Elections and Registrations incurred attorney's fees in the amount of $99.83 and expenses in the amount of $1,770.00.

CONCLUSIONS OF LAW

1.

Plaintiff P. M. Lucier did not file this matter in a pro se capacity and was represented in this matter by Charlotte Taylor who is not authorized or licensed to practice law in Georgia. Ms. Lucier is not properly represented by a licensed attorney and therefore her complaints should be dismissed.

2.

Plaintiff Emma Bennett did not file this matter in a pro se capacity and was represented in this matter by Charlotte Taylor who is not authorized or licensed to practice law in Georgia. Ms. Bennett is not properly represented by a licensed attorney and therefore her complaints should be dismissed.

3.

The State Election Board is not a proper party to this contest and should be dismissed as a defendant.

4.

The State Election Board was not properly served with process and should be dismissed.

5.

Plaintiff Charlotte Taylor was unable to produce any evidence of misconduct, fraud, or irregularity by any election official sufficient to change or place in doubt the results of the November 2, 1993 election.

6.

Plaintiff Charlotte Taylor was unable to produce any

evidence of illegal votes received by any candidates or legal votes rejected at the polls sufficient to change or place in doubt the results of the election of November 2, 1993.

7.

Plaintiff Charlotte Taylor was unable to show any errors in counting the votes or declaring the results of the election, which errors might have changed the result of the election of November 2, 1993.

8.

Plaintiff Charlotte Taylor has been unable to show any evidence of any cause which shows that any person other than James Walker should have been legally elected to the Muscogee County Board of Education for District 3 in the November 2, 1993 election.

9.

There exists a complete absence of any justiciable issue in support of the claim of Charlotte Taylor such that it could not be reasonably believed that any court would accept her asserted claim or position and consequently both defendants should recover from her their attorney's fees and expenses.

10.

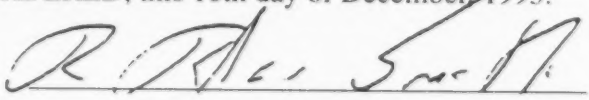
The action brought by Charlotte Taylor lacks substantial justification and is substantially frivolous, substantially groundless and substantially vexatious because plaintiff Charlotte Taylor has been unable to produce any evidence from any voter other than herself that might cause the court to believe that any votes other

than her own could have been changed and consequently both defendants should recover from her their attorney's fees and expenses.

IT IS THEREFORE ORDERED AND ADJUDGED that the election contests filed by Charlotte Taylor on behalf of P. M. Lucier and Emma Bennett are hereby dismissed. Further, the election contest filed against the State Board of Elections is also dismissed. Finally, this court rules that plaintiff Charlotte Taylor has been unable to meet her burden of showing any illegality, irregularity, misconduct or other actions sufficient to change the outcome of the election or place the outcome of the election in doubt and, accordingly, judgment is hereby entered in favor of the Muscogee County Board of Elections and Registrations and the State Election Board

Further, plaintiff Charlotte Taylor is ordered to pay all attorney's fees, costs and expenses incurred by the State Elections Board in the total amount of $1,685.20 and all attorney's fees, costs and expenses incurred by the Muscogee County Board of Elections and Registrations in the total amount of $1,869.83.

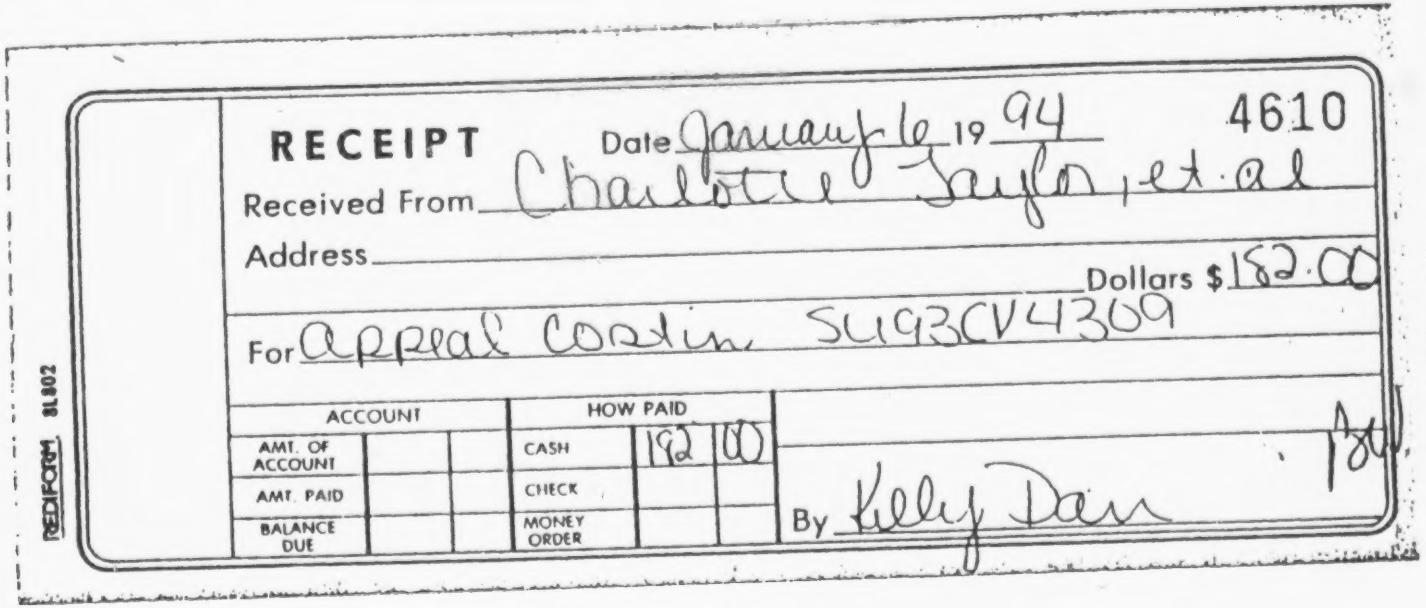
IT IS SO ORDERED, this 10th day of December, 1993.



RUCKER SMITH, Judge
Southwestern Judicial Circuit

ORDER PREPARED BY:

Pete Robinson
State Bar No.: 610658
Self, Mullins, Robinson & Marchetti
1017 First Avenue, Suite 200
P. O. Box 751
Columbus, Georgia 31902
(706) 649-3080



RECEIPT

Date January 16 19 94 4610

Received From Charlotte Taylor, et al

Address

Dollars $ 182.00

For Appeal Costs SU93CV4309

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH	182	00
AMT. PAID			CHECK		
BALANCE DUE			MONEY ORDER		

By Kelly Dan

REDIFORM BL802

Exhibit "2"

A-14

GEORGIA, MUSCOGEE COUNTY

I do certify that the within and foregoing is a true and correct copy of the documents(s) as appears by the original on file and record in the office of the Clerk of Muscogee State Court.

Receipt # 4610

19 day of Jan 19 91

Donnetta Wilson

DEPUTY CLERK, MUSCOGEE STATE COURT

M. LINDA PIERCE
CLERK OF THE STATE COURT
OF MUSCOGEE COUNTY GEORGIA

AFFIDAVIT OF KENNETH L. BARFIELD

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based upon personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election.
4) I was issued my ballot and the number on the stub part of my ballot was written by my name on the electors list.
5) I voted at approximately 8:45 A.M. on November 2, 1993. The number that appeared on the stub of my ballot was also printed on the portion of the ballot placed into the ballot box.
6) I brought it to the attention of the poll manager that there was a number printed on the portion of the ballot placed into the ballot box, which violated my right to a secret ballot.
7) The poll manager directed me to the courthouse if, I had a problem with the ballot and the violation of my right to a secret ballot.
8) I went to the courthouse **and tried to stop the election**.
9) On my arrival at the court house, I spoke with four members of the Muscogee County Board of Elections and Registrations to file my complaint.
10) Barbara Carter appeared in the office of the Muscogee County Board of Elections and Registrations; as, I spoke with the members of the board.
11) Barbara Carter told me that she had already spoken with the State Election Board and was waiting for them to advise her what to do regarding all the ballots in Muscogee County that had previously been deposited in each precinct with the numbers attached. Further, she had learned that the numbers were illegal and had been instructed to remove the numbers at once by the State Election Board.
12) Then she told me to get out of her office and she would call me when the State Election Board told her what to do.
13) At approximately 2:30 P.M. Barbara Carter had not call me. I went to Superior Court Judge Bill Smith, as a voter, to ask his

opinion regarding having the precinct impounded to protect my right to a secret ballot.

14) Superior Court Judge Bill Smith called Barbara Carter in my presence. After speaking with Barbara Carter, Judge Smith told me that Barbara Carter had been told by the State Election Board to cut off the number printed on the portion of the ballot placed into the ballot box.

15) I am an At-Large member of the Muscogee County Democratic Committee representing the entire county and have been a member of said committee for 14 years.

16) In my opinion a member of the Democratic Committee should stay current with election laws. Therefore, I do stay current with election laws, especially those regarding secret ballots.

17) I voted on a paper ballot. I did not vote on a vote recorder or other electronic device.

18) In my opinion the integrity of the election was compromised and the out come of the election could not properly be determined due to the failure of the Muscogee County Board of Elections and Registrations to comply with the election laws.

19) Everyone's Constitutional right to a secret ballot in Muscogee County was violated that had the number printed on the portion of the ballot placed into the ballot box.

20) I do not know how many ballots were in the ballot box prior to my vote. Nor, do I know how many were void or destroyed because of the number printed on the portion of the ballot placed into the ballot box.

21) I do not feel the November 2, 1993, election was a fair, or just election.

22) My voting rights were violated on November 2, 1993.

23) I was issued a witness subpoena and appeared to testify on November 30, 1993.

24) After appearing, I was not allowed to testify.

KENNETH L. BARFIELD

SWORN TO AND SUBSCRIBED BEFORE ME THIS 30

DAY OF DECEMBER, 1993.

NOTARY PUBLIC
MY COMMISSION 12-1-94
EXPIRES: _____

AFFIDAVIT OF BRENDA TRUITT

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based upon personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election.
4) I was issued my ballot and the number on the stub part of my ballot was written by my name on the electors list.
5) I placed my ballot into a voting machine and attempted to punch out the number(s) on my ballot.
6) It did not feel like the ballot was punched and I had to try several times.
7) This was due to the fact the numbers did not line up on my ballot.
8) I was in plain view of the poll workers during this time and no one offered to assist me with my ballot.
9) As a result of the foregoing, I believe I was unable to vote for the candidate of my choice.
10) I voted at approximately 3:00 P.M. on November 2, 1993. The number that appeared on the stub of my ballot was also printed on the portion of the ballot placed into the ballot box.
11) I am an ex-poll worker and in my opinion the November 2, 1993, election was not a legal election.
12) I called and talked to my Georgia State Senator, Pete Robinson. I requested Mr. Robinson look into the irregularities of the November 2, 1993, election as my Georgia State Senator.
13) Mr. Robinson refused to look into the matter stating he was representing MUSCOGEE COUNTY BOARD OF ELECTIONS AND REGISTRATIONS.
14) I asked Mr. Robinson who else would represent me, as my Georgia State Senator in matter. He stated he did not know.
15) I was issued a witness subpoena and appeared to testify on November 30, 1993.
16) After appearing, I was not allowed to testify.

Exhibit "4"

Brenda Truitt

BRENDA TRUITT

SWORN TO AND SUBSCRIBED BEFORE ME THIS 22

DAY OF DECEMBER, 1993.

NOTARY PUBLIC
MY COMMISSION
EXPIRES: [illegible]

AFFIDAVIT OF SHIRLEY TAYLOR

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based on personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election.
4) I was issued my ballot and the number on the stub part of my ballot was written by my named on the electors list.
5) I attempted to put my ballot into a voting machine and it would not fit.
6) I tried 3 different machines.
7) Finally, I had to force the ballot into the last machine.
8) During this time no one offered to assist me with my ballot, even after changing machines in plain view so many times.
9) My ballot did not lined-up properly.
10) As a result of the foregoing, I was unable to vote for the candidate of my choice.
11) I voted at approximately 11:00 A.M. on November 2, 1993. The number that appeared on the stub of my ballot was also printed on the portion of the ballot placed into the ballot box.
12) I was issued a witness subpoena and appeared to testify on November 30, 1993.
13) After appearing, I was not allowed to testify.

Shirley Taylor
SHIRLEY TAYLOR

SWORN TO AND SUBSCRIBED BEFORE ME THIS 29th

DAY OF DECEMBER, 1993.

NOTARY PUBLIC
MY COMMISSION EXPIRES: My Commission Expires January 14, 199

Exhibit "5"

AFFIDAVIT OF LINDA GEORGE

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based on personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election.
4) I was issued my ballot and the number on the stub part of my ballot was written by my name on the electors list.
5) The following is a true and accurate copy of the document I delivered to Federal and State Official(s) entitled "List of Issues" AND EXHIBIT "1" attached hereto:

"List of Issues"

Issues are what wars have been fought over. People have historically died for the cause in which we are currently engaged.

1. Poor, poor educational practices led to an elected school board. (Scheduled 11-2-93 in Muscogee County, Georgia.)
2. Campaigns were underway in eight districts plus one At Large Seat in which one At Large black candidate was reportedly intimidated in her home for two hours by a white man representing the interests of the wife (another At Large candidate) of City Attorney.
3. Because of multiple calls to my home about the above, I met Mrs. Emma Bennett and liked her. I believed she was honest and teachable. We quietly supported her for remaining weeks of campaign.
4. We went to vote on early a.m. of 11-2-93. Chaos came when I could not vote for her on my ballot at my machine. At 6:00, news on evening of 11-2-93 a man named Ken Barfield surfaced on news showing the loss of constitutional right to secret ballot. We have news footage of what went on, involving the instructions of Jeff Lanier's office, part of the Georgia Secretary of State's office. Poll workers were being told on film to cut off with scissors or hole punch the illegal numbers

from ballots.

5. I remained private until 11-4-93 when I went to a trusted employee of the United States Representative, Mac Collins, here at Columbus office and Bill Keaton courteously and firmly assured me he would phone ranking State Senator Pete Robinson in my behalf. Reader would be hard pressed to know how betrayed this citizen was when Mr. Robinson lied on phone on evening call (11-22-93) about his role, and following day it was announced on Channel 38 that he was the defense attorney for Muscogee Board of Elections. A State Senator was going to fight three little women, whose joint assets included being a military widow who raised seven children, one who had a sickle cell anemia crisis, and last one who had some experience at filling out legal paperwork and representing herself. There is no fund for attorney then or now. (There were five attorneys around Barbara Carter, Supt. of Elections in Muscogee County on 11-30-93.)
6. We all **waited** until Nov. 30, 1993, the last possible day, for a hearing by a just judge from Americus, GA. There were many people filling the corridor outside the courtroom. I did not know until yesterday (12-2-93) that approximately forty-seven of them were witnesses coming forward to testify about their 11-2-93 voting problems. Charlotte Taylor had subpoenaed about twelve people and I mistakenly thought all those 47 people were against us. I did not associate.
7. That "just" judge from the onset launched an unparalleled judicial attack on C. Taylor that resulted in his denying any witnesses to testify and denied the five VCR tapes showing news reports taped (locally via Channels 3, 38, 9) that clearly showed the scenario

unfolding. At 4:54 p.m. on 11-30-93 all hopes were destroyed of any judicial justice on this matter locally. Attorney fees and jail are threatened to Charlotte Taylor, WHO IS NOT AN ATTORNEY! Judge was R. Rucker Smith.

8. Help is being sought at state and national levels. Recently, Clerk of the Court had allegedly failed to send Judge Smith records as requested by Charlotte Taylor and we initially hand carried him her paperwork, because that was all she could access. She also called numerous court recorders and could not hire the services of even one for the courtroom.
9. Issues about the election of 11-2-93 that continue to haunt us are:
    A. Ability to vote was in jeopardy.
    B. Secret ballot was not and can be proven.
    C. Statute to disqualify all marked ballots was reportedly ignored.
    D. Mutilating ballots was instructed and partially carried out.
    E. At 6:00 p.m. voters at Shaw High School still report having illegal numbers on them.
    F. Some voters had to change machines repeatedly to be able to vote.

These are the issues of which I am aware.

10. The bottom line is preserving the election process as best we can. This has been compromised and there has been NO justice in judicial arena to date. I believe that the combined efforts of one white candidate, one black candidate, and one of Cherokee Indian descent will impact profoundly on this community.

Addendum: One of the most puzzling and provoking factors was one winner candidate's first disclosure was $40,000, $19,000 of which was admitted to be an illegal loan. This is most puzzling as the school board position reportedly pays $500 (five hundred) dollars per month.

6) The foregoing is a true and accurate list of events which took place, as witnessed by me.

7) Exhibit "2" attached hereto is a true and accurate copy of United States Senator, Sam Nunn's response to my communications.

8) I voted at approximately 7:40 to 8:00 A.M. on November 2, 1993. The number that appeared on the stub of my ballot was also printed on the portion of the ballot placed into the ballot box.

9) I voted on a paper ballot.

10) When I was unable to vote for my At-Large Candidate, I called my husband. After he came, a white female poll worker at the lock box tried to assist me. Subsequently, an older white male poll worker had to hold my ballot suspended in mid air in order for me to cast my vote.

11) I was very grateful to this individual for his help, as I would have been unable to cast my vote on the machine in my precinct.

12) After the foregoing, I heard the poll workers telling others to "get that machine out of here!"

13) There was a semi-circle formed around the machine which allegedly was to move said machine.

14) I went home and immediately called a board member. The board member ultimately assured me she would go immediately to Crystal Valley Community Center and look into the matter. That site was where I had just voted.

15) To date the foregoing board member has never called me back regarding the presenting problem.

16) I do not believe the November 2, 1993, election was a fair or just election.

17) My voting rights were violated on November 2, 1993.

18) I was issued a witness subpoena and appeared to testify on November 30, 1993.

19) After appearing, I was not allowed to testify.

20) In addition, it has been profoundly unsettling to watch a ranking State Senator defend an election so permeated with documented irregularities. Mr. Pete Robinson is my district State Senator. As my State Senator, he could not concurrently represent my voting rights and accept a retainer by the MUSCOGEE COUNTY BOARD OF ELECTIONS AND REGISTRATIONS.

Linda K. George

LINDA K. GEORGE

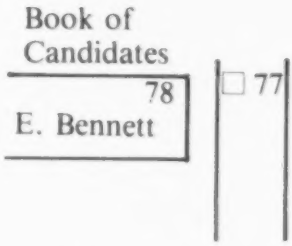
SWORN TO AND SUBSCRIBED BEFORE ME THIS ____ DAY OF JANUARY, 1994.

Laurie Carmichael
Comm Exp. 3/19/95

NOTARY PUBLIC

11-5-93

I am at home awaiting a call back from Secretary of State's office. I have spoken in person to rep of U.S. Rep Mac Collin's office yesterday. He urged me to call Tom Buck, my state representative. I did so and continued to await a return call.



I am going to draw what I saw on Tuesday morning election from approximately 7:40 - 8:00 at Crystal Valley Center.

Around this only box in which I could vote for my choice, number was a full digit off. I do not recall where the 77 was — either inside box or to side of it, but I could not vote for 78.

Had I punched the lined up box, my vote would not have been valid. That is when I got my husband and two poll workers and machine was to be removed.

Linda K. George

LINDA K. GEORGE

SWORN TO AND SUBSCRIBED BEFORE ME THIS 5th DAY OF NOVEMBER, 1993.

11.5.93.
Laurie Carmichael
Comm Exp. 3/19/95

NOTARY PUBLIC
MY COMMISSION
EXPIRES 3/19/95

Exhibit "1" attached to Exhibit "6"

Letter From: Senator Sam Nunn, Georgia

December 13, 1993

" Ms. Linda K. George
6225 B Olde Town
Columbus, Georgia 31907

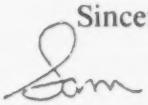
Dear Linda:

Thank you for your recent letter about a Board of Education election in Muscogee County. I have contacted the U.S. Department of Justice to express my interest in your case, and request an immediate review of your concerns.

While I cannot guarantee a favorable outcome to your request, I will make sure you receive a clear answer and fair consideration under all pertinent laws and procedural safeguards.

I will let you know as soon as I have received a response.

Sincerely,



Sam Nunn "

SN/lkj

Exhibit "2" attached to Exhibit "6"

AFFIDAVIT OF DOUGLAS W. GEORGE

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based on personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election at Crystal Valley Community Center.
4) I was issued my ballot and the number on the stub part of my ballot was written by my name on the electors list.
5) I voted at approximately 7:40 to 8:00 A.M. on November 2, 1993. The number that appeared on the stub of my ballot was also printed on the portion of the ballot placed into the ballot box.
6) I voted on a paper ballot.
7) I placed my ballot into a voting machine and attempted to punch out the number for district 6 and for the At-Large candidate of my choice. I finished quickly but observed a substantial amount of confusion on my wife's machine and ballot. She called me for help. We received help from a white female poll worker at the lock box. She obtained help for my wife via a white older male poll worker. He pulled the ballot out of the machine and held up her ballot in mid air while she voted in plain view for others to see.
8) When I was at the lock box with my wife, I heard the poll workers say "get that voting machine out of here!"
9) I am a general manager for a local business. After all this confusion, I honestly do not know for whom I voted on November 2, 1993, even though my choices were clear.
10) My State Senator Pete Robinson represented the MUSCOGEE COUNTY BOARD OF ELECTIONS AND REGISTRATIONS who had all these irregularities.
11) I was issued a witness subpoena and appeared to testify on November 30, 1993.
12) After appearing, I was not allowed to testify.

Exhibit "7"

13) Judge R. Rucker Smith allowed no witnesses to testify and reviewed none of the 5 VCR news tapes we had in our brief case. Also, he denied audio taping of the courtroom proceedings by the plaintiffs in spite of the presence of TV cameras.

Douglas W. George

DOUGLAS W. GEORGE

SWORN TO AND SUBSCRIBED BEFORE ME THIS 13th DAY OF JANUARY, 1994.

Debra J. Ochs

NOTARY PUBLIC

MY COMMISSION EXPIRES 3/14/97

AFFIDAVIT OF L.W. MYERS
REGARDING EVENTS AT HEARING
ON NOVEMBER 30, 1993 HELD AT 3:00 P.M. WITH
JUDGE R. RUCKER SMITH, PRESIDING

CHARLOTTE F. TAYLOR,
EMMA BENNETT and P.M. LUCIER
VS.
MUSCOGEE COUNTY BOARD OF ELECTIONS
AND REGISTRATIONS
and STATE ELECTION BOARD

1) I am L.W. Myers, a registered voter of Muscogee County, Georgia, and I make this affidavit based upon personal knowledge.
2) I was present in the court room on November 30, 1993, at 3:00 P.M. for the hearing, as a news reporter for a local newspaper. The following is a true and accurate account of what took place in the courtroom on November 30, 1993.
3) Dennis Dunn represented the State Election Board and Georgia State Senator, Pete Robinson, represented Muscogee County Board of Elections and Registrations.
4) The judge allowed 2 television stations (Channel 3 and Channel 9) to record the entire proceedings.
5) THE PARTIES DID NOT OBJECT.
6) Charlotte Taylor, Emma Bennett and P.M. Lucier OBJECTED before the court as the court's reporter was not available to record and transcribe the proceedings due to having a deposition scheduled. Charlotte Taylor, Emma Bennett and P.M. Lucier stated they were unable to locate another court reporter for that day and requested that the court allow a tape recorder to make a recording of the proceedings.

Exhibit "8"

7) Dennis Dunn on behalf of the State Election Board did not object. Georgia Senator Pete Robinson objected; in his opinion it could not be used to make an official transcript of the proceedings.

8) Judge R. Rucker Smith denied Charlotte F. Taylor, Emma Bennett and P.M. Lucier's motion to use a tape recorder. This left them without an accurate and verbatim record of what transpired during the court proceedings, except for what I recorded as a reporter or what some other individual might have recorded.

9) Dennis Dunn made a motion to dismiss the suit by the State Election Board;as he maintained, the State Election Board is not a party to this action. He consistently told this to the Judge.

10) Charlotte Taylor stated that Jeff Lanier was liable for the instructions given by him or his office to Muscogee County Board of Elections and Registrations and they are a party to the mutilation of some of the ballots.

11) Georgia Senator Pete Robinson stated to the court that the complaint was signed only by Charlotte Taylor and she could not represent Emma Bennett nor P.M. Lucier.

12) Judge questioned Mrs. Lucier and after being corrected as to Mrs. Lucier's name, continued to call Mrs. Lucier — **MRS. LUCIFER**. I have great difficulty with a Georgia Superior Court Judge not appearing to be able to pronounce a person's name, especially after being corrected several times. It seemed to have been done only as an act of intimidation. At this point Ms. Lucier was showing signs of stress and being visibly shaken.

13) The Judge asked Mrs. Lucier if she had signed the complaint.

14) Mrs. Lucier responded in a stuttering and stammering manner that she had indeed signed the complaint.

15) The Judge **finally** asked Mrs. Bennett if she had signed the complaint.

16) Mrs. Bennett adamantly responded that she had also signed the complaint.

17) Georgia Senator Pete Robinson said the only name on petition filed is signed Charlotte Taylor. All papers are signed only by Ms. Taylor.

18) Dennis Dunn agreed with Robinson.

19) Charlotte Taylor, Emma Bennett and P.M. Lucier objected strenuously. Additionally, they stated that if an additional signatures were required at this time they would make a motion to amend their complaint. They did in fact do this and there was not a ruling made as to this motion.

20) The Judge ignored the request of Charlotte Taylor, Emma Bennett and P.M. Lucier.

21) Judge Smith asked Ms. Taylor, are you or are you not representing Mrs. Lucier and Mrs. Bennett?

22) Charlotte Taylor answered not legally as an attorney, but as we are part of an association and Georgia Code allows us to file this action because we were all affected by the action.

23) Charlotte Taylor quoted Georgia Law.

24) Judge Smith told Ms. Taylor; you can read the law to me all day long but it won't matter or make a difference in the outcome of this case. [This was stated repeatedly several time through out the hearing.]

25) Judge Smith asked Ms. Taylor, are you a member the State Bar?

26) Taylor replied no your honor, I'm not.

27) Then Judge Smith said, Ms. Taylor you don't represent no one but yourself in this action.

28) **Judge Smith again told Ms. Taylor, you can read the law to me all day long but it won't change the outcome of this case.**

29) Charlotte Taylor went on to say Pete Robinson was violating the Georgia Constitution by representing Muscogee County Board of Elections and Registrations in a legal capacity. It was a conflict of interest for Pete Robinson to be paid to represent his other constituents and Mrs. Bennett (i.e. she lives in his district) as a Georgia State Senator, and then **concurrently** defend the Muscogee County Board of Elections and Registrations in this action.

30) Robinson replied, the Attorney General says there is no conflict in representing the Board. I noticed that Mr. Robinson offered no evidence that this was in fact true. I saw no written legal opinion offered into evidence.

31) Robinson asked Judge Smith; Your Honor, are you going to issue rulings on these matters now?

32) Judge Smith said, I am not going to issue a ruling until the end of the hearing and then I'll issue a ruling on everything.

33) JUDGE SMITH THEN ORDERED ALL THE WITNESSES TO LEAVE THE COURT ROOM.

34) Judge R. Rucker Smith ordered Mrs. Emma Bennett and P.M. Lucier out of the courtroom.

35) MRS. BENNETT AND MRS. LUCIER OBJECTED TO BEING ORDERED OUT OF THE COURT ROOM. HOWEVER, MRS. BENNETT AND MRS. LUCIER LEFT, AS ORDERED BY THE COURT. Then Judge proceeded to interrogate Ms. Taylor in a very scornful manner.

36) The attached article is Exhibit "1" and was written following the hearing in THE VOICE NEWSPAPER by me. This article represents a summary of what took place in the courtroom on November 30, 1993.

E. W. MYERS

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS ____
DAY OF JANUARY, 1994.

NOTARY PUBLIC

MY COMMISSION EXPIRES: February 1, 1994

R A COMMUNITY

cember 3, - December 8, 1993 25¢

Judge R. Rucker Smith single handedly defeated Charlotte Taylor's Suit to void School Board Election

By L. W. Myers, Jr.

Columbus, Ga. -- In what appeared to be an open and shut case of illegalities that occurred during the Muscogee County School Board Elections for the county's first elected school board, Charlotte Taylor was single handedly shut down by Superior Court Judge R. Rucker Smith on November 30th at the government center.

Judge Smith had been brought in to Columbus from

Charlotte Taylor

Americus, Georgia to hear the case because of it's controversial nature and the possibility of Taylor not

Continued on Page 8

Exhibit "1" Attached to Exhibit "8"

Judge Whips Taylor

from Page 1

being able to get a fair trial. Judge Smith left many who came to testify that there indeed was a problem angry and upset, when he declared P. M. Lucier and Emma M. Bennett was not a party to the action brought by Taylor.

"Ms. Taylor, are you or are you not representing Ms. Lucier and Mrs. Bennett?", Judge Smith said. To which Taylor responded; "not legally as an attorney, but as we are part of an association and Georgia Code allows us to file this action because we were all affected by the action."

"Ms. Taylor, are you a member of the State Bar?," Smith asked. "No your honor, I'm not," Taylor replied. "Then Ms. Taylor you don't represent no one but yourself in this action," Smith said.

Once Judge Smith removed Ms. Lucier and Mrs. Bennett from the court room, he proceeded to narrow down Taylor's charges in her lawsuit to one election district and the one vote cast by Taylor, which he determined was not enough to change the outcome of the election.

Repeatedly, Taylor requested a VCR be brought to the court room to show that she had the proof physical evidence to support her claim and was denied as well as all witnesses she brought to testify on her behalf all of which fell on deaf ears and was denied by Judge Smith.

State Senator Pete Robinson represented the Muscogee County Board of Elections and really had to mount little or no defense to the charges as Judge Smith provided the cross examination of Taylor. For her day in court, Judge Smith threw out the case, never hearing or seeing any of Taylor's evidence, and fined with paying attorney fees for Muscogee County Board of elections.

Earlier , it had been rumored that this would be the outcome of the case as certain defendants had publicly claimed "the trial would be over fast."

AFFIDAVIT OF JOHN ELLISON

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based upon personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election.
4) I was issued my ballot and the number on the stub part of my ballot was written by my name on the electors list.
5) I voted at approximately 1:00 P.M. on November 2, 1993. The number that appeared on the stub of my ballot was also printed on the portion of the ballot placed into the ballot box.
6) I brought it to the attention of the poll manager that there was a number printed on the portion of the ballot placed into the ballot box, which violated my right to a secret ballot.
7) I am the 2nd Vice- Chair of the Muscogee County Democratic Committee representing the entire county and have been a member of said committee for a number of years.
8) I am a former member of the MUSCOGEE COUNTY BOARD OF ELECTIONS AND REGISTRATIONS and as a former member of said board, I am familiar with the election laws of the State of Georgia.
9) I voted on a paper ballot. I did not vote on a vote recorder or other electronic device.
10) The paper ballot did not line up with the corresponding number on the machine in the November 2, 1993, election.
11) Upon reaching the ballot box, I discovered that my ballot had not lined up with the corresponding number on the machine.
12) The reason I did not go any further with the problem was I believed it was just my ballot. Later, I discovered that there were many others affected by the same problem through the news media.
13) I was present for the entire hearing on November 30, 1993, in the case of Charlotte F. Taylor, Emma Bennett, and P.M. Lucier vs. Muscogee County Board of Election And Registrations and State Election Board.

Exhibit "9"

14) Candidate(s) have a right to examine to the ballots and to demand a recount.

15) The judge did NOT afford Charlotte F. Taylor, Emma Bennett, and P.M. Lucier the rights of examining the ballots.

16) Judge R. Rucker Smith ordered two of the plaintiffs out of the court room, and then interrogated Ms. Taylor.

17) Further, the judge did not allow any witness to testify or any evidence to be presented, even though Ms. Taylor repeatedly requested permission to have the foregoing.

18) The defendants did not present any evidence nor did they have any witnesses testify. Therefore, the plaintiffs were not allowed the legal right to cross examine any witness.

19) It was obvious the plaintiffs were not allowed to defend themselves in this action, in Judge R. Rucker Smith's courtroom.

20) Everyone's Constitutional right to a secret ballot in Muscogee County was violated that had the number printed on the portion of the ballot placed into the ballot box.

21) I do not know how many ballots were in the ballot box prior to my vote. Nor, do I know how many were void or destroyed because of the number printed on the portion of the ballot placed into the ballot box.

22) My voting rights were violated on November 2, 1993.

John Ellison
JOHN ELLISON

SWORN TO AND SUBSCRIBED BEFORE ME THIS 17
DAY OF ~~DECEMBER~~ Jan, 1994 ~~1993~~.

Hazel Cosby
NOTARY PUBLIC
MY COMMISSION
EXPIRES: 3-2-96

AFFIDAVIT OF JOHN ELLISON
REGARDING EVENTS AT HEARING
ON NOVEMBER 30, 1993 HELD AT 3:00 P.M. WITH
JUDGE R. RUCKER SMITH, PRESIDING

CHARLOTTE F. TAYLOR,
EMMA BENNETT and P.M. LUCIER
VS.
MUSCOGEE COUNTY BOARD OF ELECTIONS
AND REGISTRATIONS
and STATE ELECTION BOARD

1) I am John Ellison a registered voter of Muscogee County, Georgia, and I make this affidavit based upon personal knowledge.
2) I was present in the court room on November 30, 1993, at 3:00 P.M. for the entire hearing and the following is a true and accurate account of what took place in the court room on November 30, 1993.
3) Dennis Dunn represented the State Election Board and Georgia State Senator, Pete Robinson, represented Muscogee County Board of Elections and Registrations.
4) Charlotte F. Taylor stated before the court that she represented herself. Emma Bennett stated before the court that she represented herself. P.M. Lucier stated before the court that she represented herself.
5) The judge allowed 2 television stations (Channel 3 and Channel 9) to record the entire proceedings.
6) THE PARTIES DID NOT OBJECT.
7) The plaintiffs OBJECTED TO the court as the court's reporter was not available to record and transcribe the proceedings due to having a deposition scheduled and the plaintiffs were unable to locate another court reporter for that day and requested that the court allow a tape recorder to make a

recording of the proceedings.

8) Dennis Dunn on behalf of the State Election Board did not object. Georgia Senator Pete Robinson objected — in his opinion it could not be used to make an official transcript of the proceedings.
9) Judge R. Rucker Smith denied the plaintiffs' motion to use a tape recorder. This left the plaintiffs without a verbatim record of the proceedings.
10) Dennis Dunn was late by approximately 5 minutes to court. The plaintiffs had no objections to Mr. Dunn defending the State Election Board even though he was late. The plaintiffs did so state this before the court.
11) Dennis Dunn: He made a motion to dismiss the suit by the State Election Board.
12) Dennis Dunn: State Election Board is not a party to this action. He consistently told this to Charlotte Taylor.
13) Charlotte Taylor: He (Jeff Lanier) is liable for the instructions given by him or his office to Muscogee County Board of Elections and Registrations and they are a party to mutilation of some of the ballots.
14) Georgia Senator Pete Robinson: Stated to the court that the complaint was signed only by Charlotte Taylor and she could not represent Emma Bennett nor P.M. Lucier.
15) Nasty attitude from Judge Smith toward Charlotte Taylor regarding alleged representation by Charlotte Taylor for Emma Bennett and P.M. Lucier. The nasty attitude became evident initially when judge acted provoked and loud with Ms. Taylor, appearing very unprofessional in my opinion. All subpoenaed witnesses were present and saw this behavior.
16) Judge questioned Mrs. Lucier and after being corrected as to Mrs. Lucier's name, continued to call Mrs. Lucier — **MRS. LUCIFER**. I could not believe this questionable attempt by the Judge to intimidate the plaintiff.
17) Judge: The clerk's file does not show Ms. Bennett or Ms.

Lucier as contesting election according to the Judge.

18) The Judge asked Mrs. Lucier if she had signed the complaint, in a very intimidating manner.

19) Mrs. Lucier: She responded that she had indeed signed the complaint and had done so on November 4, 1993. (Mrs. Lucier was showing signs of stress at the repeated redundant inquires.)

20) The Judge finally asked Mrs. Bennett if she had signed the complaint.

21) Mrs. Bennett: She clearly responded that she had also signed the complaint and had done so on November 4, 1993.

22) Georgia Senator Pete Robinson: Only name on petition filed — is signed Charlotte Taylor — all papers are signed only by Charlotte Taylor.

23) Dennis Dunn: Agrees with Robinson.

24) The Plaintiffs objected strenuously. The plaintiffs additionally stated that if an additional place needed to be signed that at this time they would make a motion to amend their complaint. They did in fact do this and there was not a ruling made as to this motion.

25) Judge Smith: Ms. Taylor, are you or are you not representing Mrs. Lucier and Mrs. Bennett?

26) Charlotte Taylor: Not legally as an attorney, but as we are part of an association and Georgia Code allows us to file this action because we were all affected by the action.

27) Charlotte Taylor: She quoted (GA) code 15-19-52.

28) Judge told Ms. Taylor: you can read laws to me all day long but it won't matter or make a difference. [This was stated repeatedly through out the hearing.]

29) Judge Smith: Ms. Taylor, are you a member the State Bar?

30) Charlotte Taylor: No your honor, I'm not.

31) Judge Smith: Then Ms. Taylor you don't represent no one but yourself in this action.

32) Judge again told Ms. Taylor: you can read laws to me all day long but it won't matter or make a difference.

33) Charlotte Taylor: She went on to say Pete Robinson was violating the Georgia Constitution by representing Muscogee County Board of Elections and Registrations in a legal capacity. It was a conflict of interest for Pete Robinson to be paid to represent his other constituents and Mrs. Bennett (i.e. she lives in his district) as a Georgia State Senator, and then **concurrently** defend the Muscogee County Board of Elections and Registrations in this action.

34) Robinson: Attorney General says no conflict in representing Board. I noticed that Mr. Robinson offered no evidence that this was in fact true. I saw no written legal opinion offered into evidence.

35) Judge: He stated to the Attorneys for the defendants — clarify your points.

36) Dunn: Stated to the Judge, the election was not violated and there was no involvement of the Secretary of State or the Board. Jeff Lanier acts as Secretary of Rules and Regulations.

37) Robinson: There are sufficient grounds for dismissal.
    1. Bennett/Lucier are not properly represented.
    2. There are no irregularities.
    3. The Petitions are based on the Georgia Code for paper ballots and should have been based on the electronic — vote recorder ballots.

38) Robinson: Your Honor, are you going to issue rulings on the foregoing matters now.

39) Judge: I not going to issue a ruling until the end of the hearing and then I'll issue a ruling on everything.

40) Judge to Charlotte Taylor: What do you have to say about these ballots?

41) Charlotte Taylor: They are paper ballots and the petitions are correctly based on the paper ballot Code of Georgia.

42) Judge to Charlotte Taylor: What do you allege was wrong?

43) Georgia Senator Pete Robinson: Your Honor, before Ms. Taylor responds, may we have all the witnesses leave the court room?

44) WITNESSES LEFT THE COURT ROOM.

45) Judge R. Rucker Smith ordered two of the plaintiffs (Mrs. Emma Bennett and P.M. Lucier) out of the court room, and then interrogated Ms. Taylor.

46) THE PLAINTIFFS OBJECT TO BEING ORDERED OUT OF THE COURT ROOM. HOWEVER, MRS. BENNETT AND MRS. LUCIER LEFT, AS ORDERED BY THE COURT.

47) Charlotte Taylor: The ballots had number(s) on them which identified the voter — she described the voting procedure, to include the ballot being issued and the number on the stub part of the ballot being written by the voter's name on the electors list. She also described how the number that appeared on the portion of the ballot placed into the ballot box was done, thereby voiding numerous persons' votes through out the entire county on November 2, 1993, and quoted Georgia Election Code.

48) Georgia Senator Pete Robinson: Barbara Carter was not aware of any problems until approximately 9 A.M. Barbara Carter called Jeff Lanier and was instructed by Jeff Lanier or his office to cut off numbers.

49) Charlotte Taylor: The ballots did not properly fit into the voting machine.

50) Charlotte Taylor: Ballots were cut — which voided the ballots according to State Law.

51) Charlotte Taylor: Ms. Taylor cited the Georgia Code and Rules Of State Election Board. Ms. Taylor read this section which stated as follows:

"2. Fold Over Ballot Card: (ii) Use in General and Special Elections. In elections, the punched portion of the card and the write-in fold over portion of the card must remain together in the ballot box in order to constitute a valid vote. Separate ballots shall be classified as invalid votes and shall not be counted. In elections, after the polls close, the poll officers shall review the fold over ballot card to ascertain whether the elector has cast any write-in votes. If no write-in vote is recorded on the write-in portion of the ballot, then that portion of the ballot card shall be returned to the Superintendent with the other election supplies. If a write-in vote has been recorded on that portion of the fold over ballot card, the poll officers shall follow the provisions of the Georgia Code."

54) Georgia Senator Pete Robinson: The number cut off of the ballot was not part of the ballot.

55) Charlotte Taylor: Ms. Taylor demonstrates positions of numbers on ballots.

56) Georgia Senator Pete Robinson: There were no write-in candidates.

57) Judge to Charlotte Taylor: Are we dealing with write-in candidates. Where do write-in apply?

58) Charlotte Taylor: The ballots became void pursuant to Rules Of State Election Board "Use in General and Special Elections. In elections, the punched portion of the card and the write-in fold over portion of the card must remain together in the ballot box in order to constitute a valid vote. **Separate ballots shall be classified as invalid votes and shall not be counted.** In elections, after the polls close, the poll officers shall review the fold over ballot card to ascertain whether the elector has cast any write-in votes. If no write-in vote is recorded on the write-in portion of the ballot, then that portion of the ballot card shall be returned to the Superintendent with the other election supplies. If a write-in vote has been

recorded on that portion of the fold over ballot card, the poll officers shall follow the provisions of Georgia Code.

59) The Judge denied plaintiffs' request to examine the ballots.

60) Ms. Taylor repeatedly asked that she be allowed to call witnesses.

61) The judge repeatedly would not allow the witnesses to testify.

62) Ms. Taylor repeatedly asked that a VCR be brought to the court room to show that she had the physical evidence to support her claim.

63) Georgia Senator Pete Robinson asked the Judge to grant attorneys fees under the Georgia Code for frivolous law suit.

64) The Judge granted this with the amounts to be determined at a later date.

65) I was shocked when the other two plaintiffs were ordered out of the court room and their case was tried without them.

66) I do not have a financial interest in the out come of this case. I am not a relative to any party in this action. I do not have a business relationship with any one in this action.

67) I make this affidavit in the interest that justice may be served, as I do not believe it was on Novenber 30, 1993.

JOHN ELLISON

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 17th DAY OF JANUARY, 1994.

NOTARY PUBLIC

MY COMMISSION EXPIRES: 3-2-96

AFFIDAVIT OF JAMES B. BENNETT

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based on personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election about 12:25 noon of that day.
4) I was issued my ballot and the number on the stub part of my ballot was written by my name on the electors list.
5) When I went to vote on November 2, 1993, I had trouble inserting my ballot into the machine at Arnold Junior High. It seemed to me that the holes were kind of off. I am not sure if I voted for my wife (At Large Candidate) or not. That was certainly my intent.
6) The poll worker sitting at the desk where the lock box was located asked me if there was anything wrong. I told him I had it in the machine now. I told the poll worker the holes seemed to be off.
7) I was voting on a paper ballot.
8) I was subpoenaed to testify about my voting difficulties in the hearing on November 30, 1993, and I did appear. I had to get off early from my job to comply with the subpoena.
9) I was not allowed to testify. The Judge should have listened to our case and upheld the law.
10) Not only was I out in the hall with **ALL THOSE OTHER WITNESSES**, but the Judge sent my wife who was and is one of the three plaintiffs into the hallway with us witnesses.
11) The last fact that I wish to make clear is that I have served in the military for 17 and 1/2 years. I served with honor for seven whole months in DESERT STORM. I came home, seeking among other things, a better education for all kids – not just mine. To have the system (election process and judicial process) fail like it did is very discouraging.

Exhibit "11"

James B Bennett

JAMES B. BENNETT

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS 17 DAY OF JANUARY, 1994.

Marie Reid

NOTARY PUBLIC

MY COMMISSION EXPIRES: My Commission Expires 2-6-96.

AFFIDAVIT OF EMMA BENNETT

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based on personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election about 12:20 noon of that day.
4) I was issued my ballot and I watched the poll worker write down my name on the electors list, to include the number on the stub part of my ballot.
5) When I went to the voting machine, I **made three different attempts to vote in the same machine. On the third attempt my card finally fit in to the machine. Then I thought I punched a hole and took the ballot out of the machine.** I tried to see what number I punched. I could not see who I voted for, as I could see no number punched out on my ballot. I tore off my stub and folded over the ballot and gave it to the poll worker. Then I put my ballot into the lock box. I turned to see my husband, and he was having problems going from machine to machine trying to vote. No poll worker helped me [but after I left the building my husband said a worker later helped him.]
6. I did vote at the same site where I have voted for the past 2 years. As done previously, I voted on a paper ballot.
7. Election night on the radio, I listened. I saw on the news what happened to Ken Barfield and I questioned why the election was not **STOPPED.**
8. I signed the papers on November 4, 1993, and it was notarized at the Allstate Agency near my home, to the bring law suit against MUSCOGEE COUNTY BOARD OF ELECTIONS AND REGISTRATIONS. I handed all the paper work over to Charlotte Taylor and she left my residence with it and went to Pearl Lucier's. Those two women reportedly went to the court house and filed paper work that very day. Charlotte Taylor reported back to me by phone when the papers were filed.

Exhibit "12"

9. I was not sent a witness subpoena because I was indeed one of the three plaintiff(s). I did receive from the Court Clerk's office papers for the plaintiff(s).
10. When the hearing was under way on November 30, 1993, at 3:00 P.M., Judge R. Rucker Smith all but ignored me as a plaintiff. He ask me one question, then virtually ignored the date I gave him, and then sent me to the hall. I was sent to the hall way with all witnesses stretched out the length of the corridor reaching that security check point to past the court room itself up on the 10th floor.
11) I was never given a chance to speak to the Judge under oath or to represent myself.
12) I felt like they [Judge R. Rucker Smith and the attorneys with Ms. Carter] wanted me out of the way so they could go after Ms. Taylor.
13) The fact that Judge R. Rucker Smith rushed us out of the court room without letting us speak on our own behalf constitutes to me that he did not want to see justice done.

Emma M. Bennett

EMMA BENNETT

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____

DAY OF JANUARY, 1993.

Barbara M. Gibson

NOTARY PUBLIC
MY COMMISSION
EXPIRES: My Commission Expires 12/31/94

AFFIDAVIT OF P.M. LUCIER

1) I am a registered voter of Muscogee County, Georgia, and I make this affidavit based on personal knowledge.
2) I was eligible to vote in the November 2, 1993, election.
3) I voted in the November 2, 1993, election between 8 and 9 A.M.
4) I was issued my ballot.
5) I placed my ballot into a voting machine and attempted to punch out the number(s) on my ballot. As far as I know, I voted properly. I did notice a female poll worker at the lock box did not know what she was doing (i.e. indecisiveness about who was to tear off my ballot stub; also she did not know exactly where to put the stub of the ballot).
6) I did vote at the same site where I have voted for years. As per usual, I voted on a paper ballot.
7) That very evening, November 2, 1993, as I watched and listened to the election results, I began to have real questions about the process. I know that results of elections were actually being announced before any figures in particular district 7 race were announced. That led me to question the validity of this election.
8) Because of all the irregularities that were surfacing, I joined as a plaintiff the effort to bring a law suit against the MUSCOGEE COUNTY BOARD OF ELECTION AND REGISTRATION and STATE ELECTION BOARD. Suit was filed by the three of us as we signed the papers within 48 hours of the November 2, 1993, election. I joined this fight because it was the right thing to do.
9) I was not sent a witness subpoena because I was one of the three plaintiffs.
10) To my absolute amazement, Judge R. Rucker Smith in the hearing on November 30, 1993, dismissed me out of the courtroom and left me in the hall way with approximately 60 witnesses.

Exhibit "13"

11) I was not given the chance to speak under oath to Judge R. Rucker Smith or to represent myself. Further, I could not believe it when Judge Smith repeatedly called me **Mrs. Lucifer.**

12) It was my impression that Judge R. Rucker Smith wanted to get me out of the way to focus on Charlotte Taylor.

Pearla Lucier
P. M. LUCIER

SWORN TO AND SUBSCRIBED BEFORE ME THIS 17th

DAY OF JANUARY
, 1993.

Eduard R. Rios
NOTARY PUBLIC
MY COMMISSION
EXPIRES: My Commission Expires 12/31/94

AFFIDAVIT OF CHARLOTTE F. TAYLOR
REGARDING EVENTS AT HEARING ON
NOVEMBER 30, 1993 HELD AT 3:00 P.M. WITH
JUDGE R. RUCKER SMITH, PRESIDING

CHARLOTTE F. TAYLOR,
EMMA BENNETT and P.M. LUCIER
VS.
MUSCOGEE COUNTY BOARD OF ELECTIONS
AND REGISTRATIONS
and STATE ELECTION BOARD

1) I am Charlotte F. Taylor a registered voter of Muscogee County, Georgia, a Republican, a nonpartisan candidate, and I make this affidavit based upon personal knowledge.
2) I was present in the court room on November 30, 1993, at 3:00 P.M. for the entire hearing, as a contestant, and the following is a true and accurate account of what took place in the court room on November 30, 1993.
3) Dennis Dunn represented the State Election Board and Georgia State Senator, Pete Robinson, represented Muscogee County Board of Elections and Registrations.
4) Charlotte F. Taylor stated before the court that she represented herself. Emma Bennett stated before the court that she represented herself. P.M. Lucier stated before the court that she represented herself.
5) The judge allowed 2 television stations (Channel 3 and Channel 9) to record the entire proceedings.
6) THE PARTIES DID NOT OBJECT.
7) The plaintiffs made OBJECTIONS BEFORE the court as the court's reporter was not available to record and transcribe the proceedings due to having a deposition scheduled for that day. The plaintiffs were unable to locate another court reporter for

that day and requested that the court allow a tape recorder to make a recording of the proceedings.

8) Dennis Dunn on behalf of the State Election Board did not object. Georgia Senator Pete Robinson objected — in his opinion it could not be used to make an official transcript of the proceedings.

9) Judge R. Rucker Smith denied the plaintiffs' motion to use a tape recorder. This left the plaintiffs without a verbatim record of the proceedings. This was in spite of his allowing the T.V. Stations to record the entire proceedings.

10) Dennis Dunn was late by approximately 5 minutes to court. The plaintiffs had no objections to Mr. Dunn defending the State Election Board even though he was late. The plaintiffs did so state this before the court.

11) Dennis Dunn made a motion to dismiss the suit by the State Election Board.

12) Dennis Dunn contended that the State Election Board was not a party to the action.

13) The Plaintiffs OBJECTED stating Jeff Lanier was liable for the instructions given by him or his office to Muscogee County Board of Elections and Registrations and they are a party to the mutilation of some of the ballots.

14) Georgia Senator Pete Robinson stated to the court that the complaint was signed only by Charlotte Taylor and she could not represent Emma Bennett nor P.M. Lucier.

15) Judge questioned Mrs. Lucier and after being corrected as to Mrs. Lucier's name, continued to call Mrs. Lucier — **MRS. LUCIFER**. This upset Mrs. Lucier to the point she was almost unable to respond to the Judge.

16) Judge R. Rucker Smith indicated the clerk's file did not show Ms. Bennett or Ms. Lucier as contesting the election.

17) The Judge asked Mrs. Lucier if she had signed the complaint, in a very intimidating manner.

18) Mrs. Lucier responded that she had indeed signed the complaint and had done so on November 4, 1993.

19) The Judge eventually asked Mrs. Bennett if she had signed the complaint.

20) Mrs. Bennett stated very firmly that she had signed the complaint and had done so on November 4, 1993.

21) Georgia Senator Pete Robinson said that the only name on petition filed —- is signed Charlotte Taylor — all papers are signed only by Charlotte Taylor.

22) Dennis Dunn agreed with Georgia Senator Pete Robinson.

23) The Plaintiffs objected strenuously. Additionally the plaintiffs stated that if additional signatures were required at this time they would make a motion to amend their complaint. At this time the plaintiffs made a motion for which there was not a ruling made.

24) Judge Smith asked me,"Are you or are you not representing Mrs. Lucier and Mrs. Bennett?"

25) I stated before the Court the following,"Not legally as an attorney, but as we are part of an association and Georgia Code allows us to file this action because we were all affected by the action."

26) Then I quoted O.C.G.A. 15-19-52.

27) To which the Judge indicated I could read law to him all day long but it won't make a difference.

28) Judge Smith asked me,"Ms. Taylor, are you a member the State Bar?"

29) To which I responded, "No your honor, I'm not."

30) Judge Smith then responded,"Then Ms. Taylor you don't represent no one but yourself in this action."

31) The plaintiffs made objections to Georgia Senator Pete Robinson representing the Muscogee County Board of Elections and Registrations. Pete Robinson was violating the Georgia Constitution by representing Muscogee County Board of Elections and Registrations in a legal capacity. It was a

conflict of interest for Pete Robinson to be paid to represent his other constituents and Mrs. Bennett (i.e. she lives in his district) as a Georgia State Senator, and then **concurrently** defend the Muscogee County Board of Elections and Registrations in this action.

32) Pete Robinson stated before the Court that the Attorney General saw no conflict in representing Board. Mr. Robinson offered no evidence,to include a written legal opinion, that this was in fact true.

33) Dunn stated to the Judge, the election was not violated and there was no involvement of the Secretary of State or the Board. Jeff Lanier acted as Secretary of Rules and Regulations.

34) Pete Robinson stated there were sufficient grounds for dismissal.

1. Bennett/Lucier are not properly represented.
2. There are no irregularities.
3. The Petitions are based on the Georgia Code for paper ballots and should have been based on the electronic — vote recorder ballots.

35) Robinson asked the Judge if he was going to issue rulings on the foregoing matters now.

36) Judge stated he was not going to issue a ruling until the end of the hearing and then he would issue a ruling on everything.

37) Judge asked me, "What do you have to say about these ballots?"

38) I stated that they were paper ballots and the petitions were correctly based on the paper ballot Code of Georgia.

39) The Judge asked me,"What do you allege was wrong?"

40) Georgia Senator Pete Robinson said,"Your Honor, before Ms. Taylor responds, may we have all the witnesses leave the court room?"

41) WITNESSES LEFT THE COURT ROOM.

42) Judge R. Rucker Smith ordered two of the plaintiffs (Mrs. Emma Bennett and P.M. Lucier) out of the court room.

43) THE PLAINTIFFS OBJECT TO BEING ORDERED OUT OF THE COURT ROOM. HOWEVER, MRS. BENNETT AND MRS. LUCIER LEFT, AS ORDERED BY THE COURT.

44) I stated before the Court that the ballots had number(s) on them which identified the voter — described the voting procedure, to include the ballot being issued and the number on the stub part of the ballot being written by the voter's name on the electors list. I also described how the number that appeared on the portion of the ballot placed into the ballot box was done, thereby voiding numerous persons' votes through out the entire county on November 2, 1993, and quoted Georgia Election Code 21-2-438.

45) Georgia Senator Pete Robinson admitted Barbara Carter was not aware of any problems until approximately 9 A.M. Barbara Carter called Jeff Lanier and was instructed by Jeff Lanier or his office to cut off numbers.

46) Then I indicated that the ballots did not properly fit into the voting machine.

47) Additionally, all the ballots that were cut would be void according to State Law.

48) I cited the Georgia Code and Rules Of State Election Board, reading the section [183-1-12.05] which stated as follows:

> 2. Fold Over Ballot Card: (ii) Use in General and Special Elections. In elections, the punched portion of the card and the write-in fold over portion of the card must remain together in the ballot box in order to constitute a valid vote. Separate ballots shall be classified as invalid votes and shall not be counted. In elections, after the polls close, the poll officers shall review the fold over ballot card to ascertain whether the elector has cast any write-in votes. If no write-in vote is recorded on the write-in

portion of the ballot, then that portion of the ballot card shall be returned to the Superintendent with the other election supplies. If a write-in vote has been recorded on that portion of the fold over ballot card, the poll officers shall follow the provisions of the Georgia Code.

49) Georgia Senator Pete Robinson argued that the number cut off of the ballot was not part of the ballot.

50) Then I demonstrated positions of numbers on ballots.

51) Georgia Senator Pete Robinson argued that there were no write-in candidates.

52) Judge asked me, "Are we dealing with write-in candidates?"

53) The ballots become void when the write-in fold over portion of the card is detached. The card must remain together in the ballot box in order to constitute a valid vote and to be counted, as detached — invalid votes are not counted.

54) The plaintiffs request to examine the ballots and the judge denied the request.

55) I repeatedly requested to be allowed to call witnesses.

56) The Judge repeatedly refused to allow the witnesses to testify.

57) I repeatedly ask that a VCR be brought to the court room to show that I had physical evidence to support all the plaintiffs claims and the Judge repeatedly denied this request.

58) The Judge repeatedly would ask,"Do you have anything else?" He would ask ,"Are you finished?" I specifically recall him, "Are you through yet?" Finally, R. Rucker Smith told me to "Sit down and be quiet!" All that reinforced the theme which he consistently stated, "Ms. Taylor, you can read law to me all day long and its not going to make a difference in the outcome of this case."

59) He never allowed the other two plaintiffs back into the courtroom to testify or defend themselves.

60) When I reflect on Judge Smith's comments in the courtroom, as well as his FINAL JUDGMENT, it is evident that Judge Smith, **in excluding all witnesses and all video tape**

materials, actually failed to recognize that this case was never about one vote in district 3. Unfortunately it is a case about an historic first time school board election in which many irregularities were experienced.

61) Then Pete Robinson asked the Judge to grant attorney(s) fees under title 9, the code section for frivolous law suits.

62) The Judge granted this with the amount to be determined at a later date.

63) This appears to be the penalty for citizens who recognized flaws in the Muscogee School Board Election process and who dared to ask for accountability.

Charlotte F. Taylor

CHARLOTTE F. TAYLOR

SWORN TO AND SUBSCRIBED TO BEFORE ME

THIS 18 DAY OF JANUARY, 1994.

Maxine Reid

NOTARY PUBLIC

MY COMMISSION EXPIRES: My Commission Expires 2-6-96

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE

ATTORNEY'S CODE OF ETHICS

PREAMBLE

In this State, where the stability of courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of this State and of the Republic, of which it is a member, to a great extent, depends upon our maintenance of justice pure and unsullied. It cannot be so maintained unless the conduct and motives of the members of our profession are such as to merit the approval of all just men.

No code or set of rules can be framed which will particularize all the duties of the lawyers in the varying phases of litigation or in all the relations of the professional life. The following canons of the ethics are adopted by the State Bar of Georgia as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned.

CANON 1

A Lawyer Should Assist in Maintaining the Integrity and competence of the Legal Profession.

ETHICAL CONSIDERATIONS

EC 1-1

A basic tenet of the professional responsibility of lawyers is that every person in our society should have ready access to the

Exhibit "15"

independent professional services of a lawyer of integrity and competence. Maintaining the integrity and improving the competence of the bar to meet the highest standards is the ethical responsibility of every lawyer.

EC 1-2

The public should be protected from those who are not qualified to be lawyers by reason of a deficiency in education or moral standards or of other relevant factors but who nevertheless seek to practice law. To assure the maintenance of high moral and educational standards of the legal profession, lawyers should affirmatively assist courts and other appropriate bodies in promulgating, enforcing, and improving requirements for admission to the bar. In like manner, the bar has a positive obligation to aid in the continued improvement of all phases of preadmission and post-admission legal education.

EC 1-3

Before recommending an applicant for admission, a lawyer should satisfy himself that the applicant is of good moral character. Although a lawyer should not become a self-appointed investigator or judge of applicants for admission, he should report to proper officials all unfavorable information he possesses relating to the character or other qualifications of an applicant.

EC 1-4

The integrity of the profession can be maintained only if conduct of lawyers in violation of the Disciplinary Rules is brought to the attention of the proper officials. A lawyer should reveal voluntarily to those officials all unprivileged knowledge of conduct of lawyers which he believes clearly to be in violation of the Disciplinary Rules. A lawyer should, upon request, serve on and assist committees and boards having responsibility for the administration of the Disciplinary Rules.

EC 1-5

A lawyer should maintain high standards of professional conduct and should encourage fellow lawyers to do likewise. He

should be temperate and dignified, and he should refrain from all illegal and morally reprehensible conduct. Because of his position in society, even minor violations of law by a lawyer may tend to lessen public confidence in the legal profession. Obedience to law exemplifies respect for law. To lawyers especially, respect for the law should be more than a platitude.

EC 1-6

An applicant for admission to the bar or a lawyer may be unqualified, temporarily or permanently, for other than moral and educational reasons, such as mental or emotional instability. Lawyers should be diligent in taking steps to see that during a period of disqualification such person is not granted a license or, if licensed, is not permitted to practice. In like manner, when the disqualification has terminated, members of the bar should assist such person in being licensed, or if licensed, in being restored to his full right to practice.

EC 1-7

A partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Standards of Conduct.

EC 1-8

A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Standards of Conduct.

EC 1-9

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable assurance that the person's

conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Standards of Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner in the law firm in which the other lawyer practices and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action; or

(3) the lawyer has direct supervisory authority over the other lawyer and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

CANON 9

A Lawyer Should Avoid Even the Appearance of Professional Impropriety

ETHICAL CONSIDERATIONS

EC 9-1

Continuation of the American concept that we are to be governed by rules of law requires that the people have faith that justice can be obtained through our legal system. A lawyer should promote public confidence in our system and in the legal profession.

EC 9-2

Public confidence in law and lawyers may be eroded by irresponsible or improper conduct of a lawyer. On occasion, ethical conduct of a lawyer may appear to laymen to be unethical. In order to avoid misunderstandings and hence to maintain confidence, a lawyer should fully and promptly inform his client of material developments in the matters being handled for the client. While a lawyer should guard against otherwise proper conduct that has a tendency to diminish public confidence in the

legal system or in the legal profession, his duty to clients or to the public should never be subordinate merely because the full discharge of his obligation may be misunderstood or may tend to subject him or the legal profession to criticism. When explicit ethical guidance does not exist, a lawyer should determine his conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.

EC 9-3

After a lawyer leaves judicial office or other public employment, he should not accept employment in connection with any matter in which he had substantial responsibility prior to his leaving, since to accept employment would give the appearance of impropriety even if none exists.

EC 9-4

Because the very essence of the legal system is to provide procedures by which matters can be presented in an impartial manner so that they may be decided solely upon the merits, any statement or suggestion by a lawyer that he can or would attempt to circumvent those procedures is detrimental to the legal system and tends to undermine public confidence in it.

EC 9-5

Separation of the funds of a client from those of his lawyer not only serves to protect the client but also avoids even the appearance of impropriety, and therefore commingling of such funds should be avoided.

EC 9-6

Every lawyer owes a solemn duty to uphold the integrity and honor of his profession; to encourage respect for the law and for the courts and the judges thereof; to observe the Code of Professional Responsibility; to act as a member of a learned profession, one dedicated to public service; to cooperate with his brother lawyers in supporting the organized bar through the devoting of his time, efforts, and financial support as his

professional standing and ability reasonably permit; to conduct himself so as to reflect credit on the legal profession and to inspire the confidence, respect, and trust of his clients and of the public; and to strive to avoid not only professional impropriety but also the appearance of impropriety.

ARTICLE 1, SECTION 1, PARAGRAPH 2 OF THE CONSTITUTION OF THE STATE OF GEORGIA

Paragraph II. Protection to person and property; equal protection.

Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws.

GEORGIA SUPREME COURT RULES 231 GA PAGE A-1, JUDICIAL CANON 3C(1) (a)

CANON 3

A Judge Should Perform the duties of His Office Impartially and Diligently.

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

(1) a judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before him.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

(4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(5) A judge should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to his direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(7) A judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judge may authorize:

(a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;

(b) the broadcasting, televising, recording or photographing of investitive, ceremonial, or naturalization proceedings;

(c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

(i) the means of recording will ;not distract participants or impair the dignity of the proceedings;

(ii) the parties have consented, and the

consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproduction;

(iii) the reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and

(iv) the reproduction will be exhibited only for instructional purposes in educational institutions and in connection with educational programs sponsored by bar organizations.

B. Administrative Responsibilities.

(1) A judge should diligently discharge his administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.

(3) a judge should report to an appropriate disciplinary body unprofessional conduct on the part of a judge or lawyer of which he may become aware.

(4) A judge should not make unnecessary appointments. He should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism. He should not approve compensation of appointees beyond the fair value of services rendered.

C. Disqualification.

(1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where:

(a) he has a personal bias or prejudice concerning a party;

(b) he served as lawyer in the matter in controversy, or a lawyer with whom he previously practice law served during such association as a lawyer concerning the matter,

or the judge or such lawyer has been a material witness concerning it;

(c) he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his house hold, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(d) he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(3) For the purpose of this section:

(a) the degree of relationship is calculated according to the civil law system;

(b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) an office in educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

D. Remittal of Disqualification.

A judge disqualified by the terms of Canon 3C(1) (c)or Canon 3C(1) (d) may, instead of withdrawing from the proceeding, disclose on the record the basis of his disqualification. If, after such disclosure, the parties and lawyers, independently of the judge's participation, all agree in writing that the judge's relationship is immaterial or that his financial interest is insubstantial, or irrespective of substantiality of interest or degree of relationship, agree to waive such disqualification, the judge is no longer disqualified, and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding.

14TH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive nay person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal

protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bar to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice Presidem, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executioner or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor nay State shall assume or pay and debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

O.C.G.A. 5-6-41. Reporting, preparation, and disposition of transcript of evidence and proceedings generally; procedure as to correction of omissions or misstatements; preparation of transcript from recollection of parties and trial judge; filing of disallowed pleading, etc.; filing of stipulation of parties as to facts, etc., of case in lieu of transcript; reporting of case at party's expense.

(a) In all felony cases, the transcript of evidence and proceedings shall be reported and prepared as provided in Code Section 17-8-5 or as otherwise provided by law.

(b) In all misdemeanor cases, the trial judge may, in his discretion, require the reporting and transcribing of the evidence and proceedings on terms prescribed by him.

(c) In all civil cases tried in the superior and city courts and in any other court, the judgments of which are subject to review by the Supreme Court or the Court of Appeals, the trial judge thereof may require the parties to have the proceedings and evidence reported, the costs thereof to be borne equally between them; and, where an appeal is taken which draws in question the transcript of the evidence and proceedings, it shall be the duty of the appellant to have the transcript prepared at his expense. Where it is determined that the parties, or either of them, are financially unable to pay the costs of reporting or transcribing, the judge may, in his discretion, authorize trail of the case unreported; and, when it becomes necessary for a transcript of the evidence and proceedings to be prepared, it shall be the duty of the moving party to prepare the transcript from recollection or otherwise.

(d) Where a trial in any civil or criminal case is reported by a court reporter, all motions, colloquies, objections, rulings, evidence (whether admitted or stricken on objection or otherwise), copies or summaries of all documentary evidence, the charge of the court, and all other proceedings which may be called

in question on appeal or other posttrial procedure shall be reported; and, where the report is transcribed, all such matters shall be included in the written transcript, it being the intention of this article that all these matters appear in the record. Where matters occur which were not reported, such as objections to oral argument, misconduct of the jury, or other like instances, the court, upon motion of either party, shall require that a transcript of these matters be made and included as a part of the record. The transcript of proceedings shall not be reduced to narrative form unless by agreement of counsel but, where the trial is not reported or the transcript of the proceedings for any other reason is not available and the evidence is prepared form recollection, it may be prepared in narrative form.

(e) Where a civil or criminal trail is reported by a court reporter and the evidence and proceedings are transcribed, the reporter shall complete the transcript and file the original and one copy thereof with the clerk of the trial court, together with his certificate attesting to correctness thereof. In criminal cases where the accused was convicted of a capital felony, an additional copy shall be filed for the Attorney General, for which the court reporter shall receive compensation form the Department of Law as provided by law. The original transcript shall be transmitted to the appellate court as a part of the record on appeal; and one copy will be retained in the trial court, both as referred to in Code Section 5-6-43. Upon filing by the reporter, the transcript shall become a part of the record in the case and need not be approved by the trail judge.

(f) Where any party contends that the transcript or record does not truly or fully disclose what transpired in the trial court and the parties are unable to agree thereon, the trial court shall set the matter down for a hearing with notice to both parties and resolve the difference so as to make the record conform to the truth. If any thing material to either party is omitted from the record on appeal or is misstated therein, the parties by stipulation,

or the trial court, either before or after the record is transmitted to the appellate court, on a proper suggestion or of its own initiative, any direct that the omission or misstatement shall be corrected and, if necessary, that a supplemental record shall be certified and transmitted by the clerk of the trial court. The trail court or the appellate court may at any time order the clerk of the trial court to send up any original papers or exhibits in the case, to be returned after final disposition of the appeal.

(g) Where a trial is not reported as referred to in subsections (b) and (c) of this Code section or where for any other reason the transcript of the proceedings is not obtainable and a transcript of evidence and proceedings is prepared from recollection, the agreement of the parties thereto or their counsel, entered thereon, shall entitle such transcript to binding effect as a transcript filed by the court reporter as referred to in subsection (e) of this Code section. In case of the inability of the parties to agree as to the correctness of such transcript, the decision of the trail judge thereon shall be final and not subject to review; and, if the trial judge is unable to recall what transpired, he shall enter an order stating that fact.

(h) Where any amendment or other pleading or paper which requires approval or sanction of the court in any proceeding before being filed of record is disallowed or sanction of the court in any proceeding before being filed of record is disallowed or sanction thereof is refused, the amendment, pleading, or paper may nevertheless be filed (with notation of disallowance thereon) and shall become part of the record for purposes of consideration on appeal or other procedure for review.

(i) In lieu of sending up a transcript of record, the parties may by agreement file a stipulation of the case showing how the questions arose and were decided in the trial court, together with a sufficient statement of facts to enable the appellate court to pass upon the questions presented therein. Before being transmitted to the appellate court, the stipulation shall be approved

by the trial judge or the presiding judge of the court where the case is pending.

(j) In all cases, civil or criminal, any party may as a matter of right have the case reported at his own expense.

O.C.G.A. 9-6-20. When mandamus may issue.

All official duties should be faithfully performed and whenever, form an cause, a defect of legal justice would ensue from a failure to perform or from improper performance, the writ of mandamus may issue to compel a due performance, if there is no other specific legal remedy for the legal rights.

O.C.G.A. 9-6-22. Enforcement of officer's duties under Title 5.

If any sheriff, clerk, or other officer fails to discharge any duty required of him by any provision of title 5, upon petition the appellate court or the superior, state, or city court, as the case may be, may compel the performance of such duty by mandamus. No party shall lose any right by reason of the failure of the officer to discharge his duties when the party has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties.

O.C.G.A. 21-2-523. Jurisdiction and general pretrial proceedings; notification of proceedings; selecting administrative judge; compensation of presiding judge.

(a) A contest case governed by this article shall be tried and determined by the superior court of the county where the defendant resides. A contest case challenging the eligibility of the two defendants declared as eligible to compete with each other in a run-off primary or election shall be tried and determined by the

superior court of the county where the defendant who received the highest number of votes resides.

(b) The superior court having jurisdiction of contest case governed by this article shall be presided over by a superior court judge or senior judge. The superior court judge or senior judge who presides over the contest shall be selected as set out in subsection (c) of this Code section.

(c) Upon the filing of a contest petition, the clerk of the superior court having jurisdiction shall immediately notify the administrative judge for the judicial administrative district in which that county lies, or the district court administrator, who shall immediately notify the administrative judge, of the institution of proceedings under this article. If the county in which the proceedings were instituted is not in circuit in which the proceeding was instituted, or a senior judge not a resident of the circuit in which the proceeding was instituted, to preside over the contest.

(d) If the administrative judge is a member of the circuit in which the proceeding was filed, or if the other judges of the district are unable or are unwilling to preside over the proceeding, or if the other judges of the district are judges of the circuit in which the proceeding was filed, then the administrative judge shall select an administrative judge of an adjoining district to select a superior court judge from that district, or a superior court judge form the district in which the proceeding was filed, but not the circuit in which the proceeding was filed, or a senior judge not a resident of the circuit wherein the proceeding was filed.

(e) After a judge has agreed to preside over the case, the administrative judge who selected the judge to hear the matter shall enter an order in the superior court of the county where the proceeding was filed appointing such judge, and such judge shall promptly begin presiding over such proceedings in such court and shall determine same as soon as practicable. Such judge shall be reimbursed for his actual expenses for food and lodging and shall

receive the same mileage as any other state officials and employees. Senior judges shall be entitled to compensation and reimbursement as the law provides for senior judge service.

U.S.C. Title 28 Section 1651. Writs.

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

U.S.C. Title 28 Section 1257. State courts; certiorari.

(a) Final judgements or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, any commission held or authority exercised under, the United States.

(b) for the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.

UNITED STATES SUPREME COURT RULE 20. Procedure on a Petition for an Extraordinary Writ.

.1. The issuance by the Court of an extraordinary writ authorized by 28 U.S.C. 1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any writ under that provision, it must be shown that the writ will be in aid of the court's appellate jurisdiction, that there are present

exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

.2. The petition in any proceeding seeking the issuance by this Court of a writ authorized by 28 U.S.C. 1651(a), 2241, or 2254(a), shall comply in all respects with Rule 33, except that a party proceeding in formal pauperis may proceed in the manner provided in Rule 39. The petition shall be captioned "In re [name of petitioner]" and shall follow, insofar as applicable, the form of a petition for a writ of certiorari prescribed by Rule 14. All contentions in support of the petition shall be included in the petition. The case will be placed on the docket when 40 printed copies, with proof of service as prescribed by Rule 29 (subject to subparagraph .4(b) of this Rule), are filed with the Clerk and the docket fee is paid.

.3. (a) A petition seeking the issuance of a writ of prohibition, a writ of mandamus, or both in the alternative, shall set for the name of and office or function of every person against whom relief is sought and shall set forth with particularity why the relief sought is not available in any other court. There shall be appended to the petition a copy of the judgment or order in respect of which the writ is sought, including a copy of any opinion render in that connection, and any other paper essential to an understanding of the petition.

(b) The petition shall be served on the judge or judges to whom the writ is sought to be directed and shall also be served on every other party to the proceeding in respect of which relief is desired. The judge or judges and the other parties may, within 30 days after receipt of the petition, file 40 printed copies of a brief or briefs in opposition thereto, which shall comply fully with Rule 15. If the judge or judges who are named respondents do not desire to respond to the petition, they may so advise the Clerk and all parties by letter. All persons served shall be deemed respondents for all purposes in the proceedings in this Court.

.4. (a) A petition seeking the issuance of a writ of habeas corpus shall comply with the requirements of 28 U.S.C. 2241 AND 2242, and in particular with the provision in the last paragraph of 2242 requiring a statement of the "reason for not making application to the district court of the district in which the applicant is held." If the relief sought is form the judgment of a state court, the petition shall set forth specifically how wherein the petitioner has exhausted available remedies in the state courts or otherwise comes within the provisions of 28 U.S.C. 2254(b). To justify the granting of a writ of habeas corpus, the petitioner must show exceptional circumstances warranting the exercise of the Court's discretionary powers and must show the adequate relief cannot be obtained in any other form or from any other court. These writs are rarely granted.

(b) Proceedings under this paragraph .4 will be ex parte, unless the Court requires the respondent to show cause why the petition for a writ of habeas corpus should not be granted. A response, if ordered, shall comply fully with Rule 15. Neither the denial of the petition, without more, nor an order of transfer to district court under the authority of 28 U.S.C. 2241(b), is an adjudication on the merits, and therefore does not preclude further application to another court for the relief sought.

.5. When a brief in opposition under subparagraph .3(b) has been filed, when a response under subparagraph .4(b) has been ordered and filed, when the time within which it may be filed has expired, or upon an express waiver of the right to file, the papers will be distributed to the Court by the Clerk.

.6. If the Court orders the case to be set for argument, the Clerk will notify the parties whether additional briefs are required, when they must be filed, and, if the case involves a petition for a common law writ of certiorari, that the parties shall proceed to print a joint appendix pursuant to Rule 26.